



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT APPLICATION of  
Inventor(s): Mills

Group Art Unit: 1745

App'n Ser. No.: 09/669,877

Examiner(s): Tsang-Foster for the  
Secret Committee

Filing Date: 09/27/2000

Title: ONE ELECTRON ATOM CATALYSIS, INCREASED BINDING ENERGY  
COMPOUNDS AND APPLICATIONS THEREOF

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(May 22, 2005 = Weekend) May 23, 2005

RESPONSE TO ADVISORY ACTION, SUPPLEMENTAL RESPONSE TO FINAL OFFICE  
ACTION, AND REQUEST FOR CONTINUED PROSECUTION

Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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Applicant files this Response to the Advisory Action mailed May 12, 2005, as a Supplemental Response to the Final Office Action mailed April 22, 2004 and as a supplement to the Response filed October 22, 2004. Please consider this paper a Petition for a five-month extension of time and a Request for Continued Examination.

Applicant requests full and fair consideration of this Supplemental Response and the Response filed October 22, 2004.

Reconsideration and allowance of the subject application are respectfully requested. Claims 1-28 are pending in the application.

Submitted with this Response is new, non-cumulative scientific evidence further demonstrating the existence of lower energy states of hydrogen in a number of different ways, including, but not limited to, studies of spectroscopic lines, energy output, compositions of matter, generated plasmas, and inverted hydrogen populations. As detailed below, Applicant also identifies independent third-party data pursuant to the PTO's agreement, which evidence resulted in verbal confirmation by Examiner Wayne

Langel that two BlackLight applications formally handled by him were allowable before he was told to misrepresent that fact and, thus, was forced to resign from examining those cases "for moral and ethical reasons."

As further revealed by Examiner Langel, and confirmed by two other Examiners, "allowance is not an option" in any pending BlackLight application according to official PTO policy. Under that arbitrary policy, the anonymous group of individuals, i.e. "Secret Committee," responsible for directing the named Examiner's actions in this case has knowingly violated well-established patent laws and procedures in presuming Applicant's novel hydrogen technology to be *per se* incredible as an excuse for its failure to properly consider and evaluate the scientific evidence of record amassed by Applicant at great expense.<sup>1</sup>

To the limited extent that the Committee has begun to address Applicant's evidence in any of his pending cases, it has done so by relying primarily upon the biased views of its newest principal member, Dr. Bernard Eng-Kie Souw, who was assigned to replace Examiner Langel and examine all of BlackLight's pending applications. As discussed below, those biased views lack credibility not just on the merits, but also due to a genuine conflict of interest involving Dr. Souw's contemporaneous ownership of, and work as the lead scientist for, a company that competes with BlackLight in the same technical areas. Consequently, the Committee's rejections in all of BlackLight's cases, including this one, which have adopted Dr. Souw's biased views, are fatally defective and should be immediately withdrawn so that these cases can be allowed to issue.

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<sup>1</sup> The established law requires that the PTO not start from the premise that an invention is "incredible." The PTO procedures outlined in MPEP § 2107, p. 2100-31, make this absolutely clear by mandating that:

[The Examiner] should not begin an evaluation of utility by assuming that an asserted utility is likely to be false, based on the technical field of the invention or for other general reasons. . . . A conclusion that an asserted utility is incredible can be reached only after the Office has evaluated both the assertion of the applicant regarding utility and any evidentiary basis of that assertion. The [Examiner] should be particularly careful not to start with a presumption that an asserted utility is, *per se*, "incredible" and then proceed to base a rejection under 35 U.S.C. 101 on that presumption.

The rejection of the claims 1-28 under 35 U.S.C. § 101 as being inoperative and lacking utility is respectfully traversed. Applicant respectfully submits that the Committee has not met its burden of raising a *prima facie* case of inoperability for the many reasons of record and, therefore, the rejection should be withdrawn for those reasons alone. Furthermore, Applicant has disclosed substantial experimental evidence in the present disclosure, prior submissions, and submissions herewith that fully rebut any *prima facie* case of inoperability the Committee might have raised. Applicant responds more fully to the Committee's comments, discusses the experimental evidence of record, and summarizes the improper prosecution procedures used by the Committee in the following paragraphs. For these additional reasons, the Section 101 rejection should be withdrawn.

The related rejection of claims 1-28 under 35 U.S.C. § 112, first paragraph, as lacking enablement, is also respectfully traversed. Applicant respectfully submits that the Committee has not met its burden of raising a *prima facie* case of lack of enablement for the many reasons of record and, therefore, the rejection should be withdrawn for those reasons alone. Furthermore, Applicant has disclosed substantial experimental evidence in the present disclosure, prior submissions, and submissions herewith that fully rebut any *prima facie* case of lack of enablement the Committee might have raised. Applicant responds more fully to the Committee's comments, discusses the experimental evidence of record, and summarizes the improper prosecution procedures used by the Committee in the following paragraphs. For these additional reasons, the Section 112, first paragraph, rejection should be withdrawn.

Applicant has filed Rule 132 Declarations certifying his submitted experimental evidence, which further rebuts the Committee's unjustified utility and enablement rejections of the claimed invention. This evidence, which the Committee required Applicant to make public by submitting it to scientific journals for publication, conclusively confirms the formation of lower-energy hydrogen through practice of Applicant's novel hydrogen chemistry. To this day, the Committee has failed to properly consider the numerous Rule 132 Declarations previously filed by Applicant in violation of its own rules, as outlined in MPEP § 716:

Evidence traversing rejections must be considered by the examiner whenever present. All entered affidavits, declarations, and other evidence traversing rejections are acknowledged and commented upon by the examiner in the next succeeding action. ... Where the evidence is insufficient to overcome the rejection, the examiner must specifically explain why the evidence is insufficient. General statements such "the declaration lacks technical validity" or "the evidence is not commensurate with the scope of the claims" without an explanation supporting such findings are insufficient. [Emphasis added.]

The Committee does not even mention, let alone consider, most of the certified experimental evidence identified in Applicant's Rule 132 Declarations that were submitted to overcome the rejections of record.

### **Lower-Energy Hydrogen Experimental Data**

With this latest submission, Applicant now has over 100 articles and books of record in this case, as reflected in the "List of References" set forth below. These articles detail studies that experimentally confirm a novel reaction of atomic hydrogen, which produces hydrogen in fractional quantum states that are at lower energies than the traditional "ground" ( $n = 1$ ) state, a chemically generated or assisted plasma (rt-plasma), and novel hydride compounds, including:

extreme ultraviolet (EUV) spectroscopy,<sup>2</sup>  
characteristic emission from catalysis and the hydride ion products,<sup>3</sup>  
lower-energy hydrogen emission,<sup>4</sup>  
plasma formation,<sup>5</sup>  
Balmer  $\alpha$  line broadening,<sup>6</sup>  
population inversion of hydrogen lines,<sup>7</sup>  
elevated electron temperature,<sup>8</sup>

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<sup>2</sup> Reference Nos. 11-16, 20, 24, 27-29, 31-36, 39, 42-43, 46-47, 50-52, 54-55, 57, 59, 63, 65-68, 70-76, 78-79, 81, 83, 85, 86, 89, 91-93, 95-96, 98, 101, 104, 108-112.

<sup>3</sup> Reference Nos. 24, 27, 32, 39, 42, 46, 51-52, 55, 57, 68, 72-73, 81, 89, 91, 108.

<sup>4</sup> Reference Nos. 14, 28-29, 33-36, 50, 63, 67, 70-71, 73, 75-76, 78-79, 86-87, 90, 92, 93, 98, 101, 104, 110-112.

<sup>5</sup> Reference Nos. 11-13, 15-16, 20, 24, 27, 32, 39, 42, 46-47, 51-52, 54-55, 57, 72, 81, 89, 91-93, 108, 109.

<sup>6</sup> Reference Nos. 16, 20, 30, 33-37, 39, 42-43, 49, 51-52, 54-55, 57, 63-65, 68-69, 71-74, 81-85, 88-89, 91, 92, 93, 95-97, 105, 108, 109.

<sup>7</sup> Reference Nos. 39, 46, 51, 54, 55, 57, 59, 65-66, 68, 74, 83, 85, 89, 91.



anomalous plasma afterglow duration,<sup>9</sup>  
power generation,<sup>10</sup>  
excessive light emission,<sup>11</sup> and  
analysis of chemical compounds.<sup>12</sup>

In addition, Applicant has shown that direct plasma to electric power conversion is possible using this novel hydrogen chemistry.<sup>13</sup>

A summary of Applicant's experimental data confirming the existence of lower-energy hydrogen is set forth below:

1.) the observation of intense extreme ultraviolet (EUV) emission at low temperatures (e.g.  $\approx 10^3 K$ ) from atomic hydrogen and only those atomized elements or gaseous ions which provide a net enthalpy of reaction of approximately  $m \cdot 27.2 eV$  via the ionization of  $t$  electrons to a continuum energy level where  $t$  and  $m$  are each an integer (e.g.  $K$  and  $Cs$  atoms and  $Rb^+$  and  $Sr^+$  ions ionize at integer multiples of the potential energy of atomic hydrogen and caused emission; whereas, the chemically similar atoms,  $Na$ ,  $Mg$ , and  $Ba$ , do not ionize at integer multiples of the potential energy of atomic hydrogen and caused no emission)<sup>14</sup>,

2.) the observation of novel EUV emission lines from microwave and glow discharges of helium with 2% hydrogen with energies of  $q \cdot 13.6 eV$  where  $q = 1, 2, 3, 4, 6, 7, 8, 9, 11, 12$  or these lines inelastically scattered by helium atoms in the excitation of  $He(1s^2)$  to  $He(1s^1 2p^1)$  that were identified as hydrogen transitions to electronic energy levels below the "ground" state corresponding to fractional quantum numbers<sup>15</sup>,

3.) the observation of novel EUV emission lines from microwave and glow discharges of helium with 2% hydrogen at  $44.2 nm$  and  $40.5 nm$  with energies of

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<sup>8</sup> Reference Nos. 34-37, 43, 49, 63, 67, 73.

<sup>9</sup> Reference Nos. 12-13, 47, 81.

<sup>10</sup> Reference Nos. 30-31, 33, 35-36, 39, 43, 50, 63, 71-73, 76-77, 81, 84, 89, 92, 93, 98, 101, 104, 108, 110-112.

<sup>11</sup> Reference Nos. 11, 16, 20, 23, 31, 37, 43, 52, 72, 109

<sup>12</sup> Reference Nos. 6-10, 19, 25, 38, 41, 44-45, 60-62, 64, 69, 75, 81-82, 87-88, 90, 92, 93, 94, 98, 100, 101, 104, 108, 110-112.

<sup>13</sup> Reference Nos. 18, 26, 40, 48, 56, 68

<sup>14</sup> Reference Nos. 11-13, 15-16, 20, 24, 27, 32, 39, 42, 46-47, 51-52, 54-55, 57, 72, 81, 89, 91-93, 108, 109

<sup>15</sup> Reference Nos. 28, 33-36, 50, 63, 67, 71, 73, 75-76, 78, 86-87, 90

$q \cdot 13.6 + \left( \frac{1}{n_f^2} - \frac{1}{n_i^2} \right) \cdot 13.6 \text{ eV}$  where  $q = 2$  and  $n_f = 2, 4$   $n_i = \infty$  that corresponded to multipole coupling to give two-photon emission from a continuum excited state atom and an atom undergoing fractional Rydberg state transition<sup>16</sup>,

4.) the identification of transitions of atomic hydrogen to lower energy levels corresponding to lower-energy hydrogen atoms in the extreme ultraviolet emission spectrum from interstellar medium and the sun<sup>17</sup>,

5.) the observation that the novel EUV series of lines with energies of  $q \cdot 13.6 \text{ eV}$  was observed with an Evenson microwave cell, only the peak corresponding to  $q = 2$  was observed with an RF cell, and none of the peaks were observed with a glow discharge cell<sup>18</sup>,

6.) the observation that in a comparison of Evenson, McCarroll, cylindrical, and Beenakker microwave cavity plasmas, the novel EUV series of lines with energies of  $q \cdot 13.6 \text{ eV}$  was only observed for Evenson-cavity helium-hydrogen plasmas<sup>19</sup>,

7.) the EUV spectroscopic observation of lines for a hydrogen-*K* catalyst plasma by the Institut für Niedertemperatur-Plasmaphysik e.V. that could be assigned to transitions of atomic hydrogen to lower energy levels corresponding to fractional principal quantum numbers and the emission from the excitation of the corresponding hydride ions<sup>20</sup>,

8.) the recent analysis of mobility and spectroscopy data of individual electrons in liquid helium which shows direct experimental confirmation that electrons may have fractional principal quantum energy levels<sup>21</sup>,

9.) the observation of novel EUV emission lines from microwave discharges of argon or helium with 10% hydrogen that matched those predicted for the reaction  $H(1/4) + H^+ \rightarrow H_2(1/4)^+$  having an energy spacing of  $2^2$  times the transition-state vibrational energy of  $H_2^+$  with the series ending on the bond energy of  $H_2(1/4)^+$ <sup>22</sup>,

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<sup>16</sup> Reference Nos. 36, 71, 73

<sup>17</sup> Reference Nos. 1, 5, 17, 28-29

<sup>18</sup> Reference Nos. 71, 73

<sup>19</sup> Reference No. 76

<sup>20</sup> Reference No. 14

<sup>21</sup> Reference Nos. 17, 53

<sup>22</sup> Reference Nos. 29, 70, 73, 79, 92, 93, 98, 101, 104

10.) the result that the novel vibrational series for the reaction  $H(1/4) + H^+ \rightarrow H_2(1/4)^+$  was only observed for catalyst plasmas of helium, neon, and argon mixed with hydrogen, but not with noncatalyst xenon or krypton mixed plasmas<sup>23</sup>,

11.) the observation that based on the intensities of the peaks, the catalyst and the plasma source dependence of the reaction rate to form  $H_2(1/4)^+$  is  $Ar^+ > He^+ > Ne^+$  and microwave > glow discharge >> RF, respectively<sup>24</sup>,

12.) the observation that the microwave plasma source dependence of the reaction rate to form  $H_2(1/4)^+$  is Evenson microwave > McCarroll, cylindrical, Beenakker<sup>25</sup>,

13.) the observation of a series of vibration-rotational bands in the 60-67 nm region, a high-energy region for which vibration-rotational spectra are ordinarily unknown, emitted from low-pressure helium-hydrogen (99/1%) microwave plasmas that matched the predicted energy spacing of the vibrational energy of  $H_2$  about the bond energy of  $H_2(1/2)$  corresponding to the reaction  $2H(1/2) \rightarrow H_2(1/2)$ <sup>26</sup>,

14.) the observation of EUV plasma emission spectra in the region 60 nm to 100 nm that matched the predicted emission lines  $E_{D_{H_2}}$  due to the reaction  $2H(1/2) \rightarrow H_2(1/2)$  with vibronic coupling at energies of  $E_{D+vib} = 17.913 \pm \left(\frac{\nu^*}{3}\right) 0.515902 \text{ eV}$  to longer wavelengths for  $\nu^* = 2$  to  $\nu^* = 32$  and to shorter wavelengths for  $\nu^* = 1$  to  $\nu^* = 16$  to within the spectrometer resolution of about  $\pm 0.05\%$ <sup>27</sup>,

15.) the observation that in addition to members of the series of novel emission lines with energies of  $q \cdot 13.6 \text{ eV}$  or  $E_{D+vib} = 17.913 \pm \left(\frac{\nu^*}{3}\right) 0.515902 \text{ eV}$  an additional intense peak was observed from a scaled-up Evenson cell at 41.6 nm with an energy of 29.81 eV that matched  $q \cdot 13.6 \text{ eV}$  with  $q = 4$  less 24.58741 eV corresponding to inelastic scattering of these photons by helium atoms due to ionization of He to  $He^+$ <sup>28</sup>,

<sup>23</sup> Reference Nos. 29, 70, 73, 79, 92, 93, 101

<sup>24</sup> Reference No. 70

<sup>25</sup> Reference No. 79

<sup>26</sup> Reference No. 99

<sup>27</sup> Reference Nos. 50, 75-76, 78, 86-87, 90

<sup>28</sup> Reference No. 86

16.) the observation that in a comparison of Evenson, McCarroll, cylindrical, and Beenakker microwave cavity plasmas, the novel series of spectral lines due to the reaction  $2H(1/2) \rightarrow H_2(1/2)$  with vibronic coupling at energies of  $E_{D+vib} = 17.913 \pm \left(\frac{\nu^*}{3}\right) 0.515902 \text{ eV}$  was only observed for Evenson-cavity helium-hydrogen and neon-hydrogen plasmas<sup>29</sup>,

17.) the observation by gas chromatography that hydrogen was consumed by the helium-hydrogen plasmas which showed the novel EUV series of lines with energies of  $q \cdot 13.6 \text{ eV}$ , the novel series of spectral lines due to the reaction  $2H(1/2) \rightarrow H_2(1/2)$  with vibronic coupling at energies of  $E_{D+vib} = 17.913 \pm \left(\frac{\nu^*}{3}\right) 0.515902 \text{ eV}$ , extraordinary H Balmer line broadening corresponding to 180 - 210 eV, and excess power of 21.9 W in 3 cm<sup>330</sup>,

18.) the observation of the dominant  $He^+$  emission and an intensification of the plasma emission observed when  $He^+$  was present with atomic hydrogen demonstrated the role of  $He^+$  as a catalyst<sup>31</sup>,

19.) the observation of continuum state emission of  $Cs^{2+}$  and  $Ar^{2+}$  at 53.3 nm and 45.6 nm, respectively, with the absence of the other corresponding Rydberg series of lines from these species which confirmed the resonant nonradiative energy transfer of 27.2 eV from atomic hydrogen to the either  $Cs$  or  $Ar^+$  catalyst<sup>32</sup>,

20.) the spectroscopic observation of the predicted hydride ion  $H^-(1/2)$  of hydrogen catalysis by either  $Cs$  or  $Ar^+$  catalyst at 407 nm corresponding to its predicted binding energy of 3.05 eV<sup>33</sup>,

21.) the observation of characteristic emission from  $K^{3+}$  which confirmed the resonant nonradiative energy transfer of  $3 \cdot 27.2 \text{ eV}$  from atomic hydrogen to atomic  $K^{34}$ ,

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<sup>29</sup> Reference No. 76

<sup>30</sup> Reference No. 76

<sup>31</sup> Reference Nos. 36, 73

<sup>32</sup> Reference Nos. 24, 39, 51, 54-55, 57, 91

<sup>33</sup> Reference No. 24

<sup>34</sup> Reference Nos. 27, 39, 42, 46, 51, 54-55, 57, 81, 89, 91

22.) the spectroscopic observation of the predicted  $H^-(1/4)$  ion of hydrogen catalysis by  $K$  catalyst at 110 nm corresponding to its predicted binding energy of 11.2 eV<sup>35</sup>,

23.) the observation of characteristic emission from  $Rb^{2+}$  which confirmed the resonant nonradiative energy transfer of 27.2 eV from atomic hydrogen to  $Rb^{+36}$ ,

24.) the spectroscopic observation of the predicted  $H^-(1/2)$  ion of hydrogen catalysis by  $Rb^+$  catalyst at 407 nm corresponding to its predicted binding energy of 3.05 eV<sup>37</sup>,

25.) the observation of  $H^-(1/2)$ , the hydride ion catalyst product of  $K^+ / K^+$  or  $Rb^+$ , at its predicted binding energy of 3.0468 eV by high resolution visible spectroscopy as a continuum threshold at 4068.2 Å and a series of structured peaks separated from the binding energy by an integer multiple of the fine structure of  $H(1/2)$  starting at 4071 Å that matched predicted free-free transitions<sup>38</sup>,

26.) the observation that the high resolution visible  $K^+ / K^+$  or  $Rb^+ - H_2$  plasma emission spectra in the region of 3995 to 4060 Å matched the predicted bound-free hyperfine structure lines  $E_{HF}$  of  $H^-(1/2)$  calculated from the electron  $g$  factor as  $E_{HF} = j^2 3.00213 \times 10^{-5} + 3.0563 \text{ eV}$  ( $j$  is an integer) for  $j = 1$  to  $j = 39$  (3.0563 eV to 3.1012 eV—the hydride binding energy peak plus one and five times the spin-pairing energy, respectively) to within a 1 part per  $10^{439}$ ,

27.)  $Rb^+$  or  $2K^+$  catalysts formed a plasma having strong VUV emission with a stationary inverted Lyman population with an overpopulation sufficient for lasing, and emission from  $H^-(1/2)$  was observed at 4071 Å corresponding to its predicted binding energy of 3.0468 eV with the fine structure and its predicted bound-free hyperfine structure lines  $E_{HF} = j^2 3.00213 \times 10^{-5} + 3.0563 \text{ eV}$  ( $j$  is an integer) that matched for  $j = 1$  to  $j = 37$  to within a 1 part per  $10^{440}$ ,

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<sup>35</sup> Reference Nos. 81, 42, 27

<sup>36</sup> Reference Nos. 32, 39, 42, 46, 51, 54-55, 57, 81, 89, 91

<sup>37</sup> Reference No. 32

<sup>38</sup> Reference Nos. 39, 42, 46, 57, 81, 89, 91

<sup>39</sup> Reference Nos. 39, 42, 46, 57, 81, 89, 91

<sup>40</sup> Reference Nos. 39, 42, 46, 51, 54, 55, 57, 81, 89, 91

28.) the observation of stationary inverted H Balmer and Lyman populations from a low pressure water-vapor microwave discharge plasma with an overpopulation sufficient for lasing at wavelengths over a wide range from micron to blue wherein molecular oxygen served as the catalyst as supported by  $O^{2+}$  emission and H Balmer line broadening of 55 eV compared to 1 eV for hydrogen alone<sup>41</sup>,

29.) the observation of H Balmer line broadening of 55 eV compared to 1 eV for hydrogen alone at distances up to 5 cm from the coupler<sup>42</sup>,

30.) the observation that with a microwave input power of  $9 \text{ W} \cdot \text{cm}^{-3}$ , a collisional radiative model showed that the hydrogen excited state population distribution was consistent with an  $n = 1 \rightarrow 5,6$  pumping power of an unprecedented  $200 \text{ W} \cdot \text{cm}^{-3}$  permissive of gas laser efficiencies orders of magnitude those of conventional visible gas lasers and direct generation of electrical power using photovoltaic conversion of the spontaneous or stimulated water vapor plasma emission<sup>43</sup>;

31.) the observation of stimulation of the stationary inverted H Balmer population from a low pressure water-vapor microwave discharge plasma by back illumination with an infrared source that showed depopulation of the  $n = 5$  state<sup>44</sup>,

32.) the observation of stationary inverted H Balmer and Lyman populations from a low pressure water-vapor microwave discharge plasma with an overpopulation sufficient for lasing was observed for Evenson microwave plasmas, but not for RF or discharge plasmas<sup>45</sup>,

33.) the observation of stationary inverted H Balmer and Lyman populations from a low pressure water-vapor microwave discharge plasma with an overpopulation sufficient for lasing that was dependent on the microwave plasma source with the highest inversion from Evenson microwave plasmas<sup>46</sup>,

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<sup>41</sup> Reference Nos. 59, 65-66, 68, 74, 83, 85

<sup>42</sup> Reference No. 74

<sup>43</sup> Reference Nos. 68, 83, 85

<sup>44</sup> Reference Nos. 59, 65, 68, 85

<sup>45</sup> Reference Nos. 59, 65-66, 68, 73, 83, 85

<sup>46</sup> Reference No. 83

34.) the observation of stationary inverted H Balmer and Lyman populations from a low pressure water-vapor microwave discharge plasma with an overpopulation sufficient for lasing that was dependent on the pressure of the Evenson microwave plasma<sup>47</sup>,

35.) the observation of stationary inverted H Balmer populations from a low pressure water-vapor microwave discharge plasma with an overpopulation sufficient for lasing at distances up to 5 cm from the coupler<sup>48</sup>,

36.) the observation that the requirement for the natural hydrogen-oxygen stoichiometry of the Evenson water plasma was stringent in that a deviation by over 2% excess of either gas caused a reversal of the H inversion in water vapor plasmas<sup>49</sup>,

37.) the observation of a typical slow H population for a water-vapor plasma maintained in a GEC-type cell that was independent of time, and a new phenomenon, an extraordinary fast population that increased from zero to a significant portion of the Balmer  $\alpha$  emission with time under no-flow conditions wherein the peak width and energy increased with time up to a 0.7 nm half-width corresponding to an average hydrogen atom energy of 200 eV<sup>50</sup>,

38.) the observation of a substantial fast H population (~20% at 40 eV) for a water-vapor plasmas maintained in a GEC-type cell that was independent of position including regions where the electric field was orders of magnitude too low to explain the extraordinarily high Doppler energies<sup>51</sup>,

39.) the observation of fast H population (40-50 eV) for  $He/H_2$  (95/5%),  $Ar/H_2$  (95/5%), and  $H_2$  plasmas maintained in a GEC-type cell that was independent of position including regions where the electric field was orders of magnitude too low to explain the extraordinarily high Doppler energies<sup>52</sup>,

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<sup>47</sup> Reference Nos. 59, 68, 73, 83, 85

<sup>48</sup> Reference No. 74

<sup>49</sup> Reference Nos. 59, 68, 83, 85

<sup>50</sup> Reference No. 95

<sup>51</sup> Reference No. 96

<sup>52</sup> Reference Nos. 92, 93, 97, 105

40.) the observation by the Institut für Niedertemperatur-Plasmaphysik e.V. of an anomalous plasma and plasma afterglow duration formed with hydrogen-potassium mixtures<sup>53</sup>,

41.) the observation of anomalous afterglow durations of plasmas formed by catalysts providing a net enthalpy of reaction within thermal energies of  $m \cdot 27.28 \text{ eV}$ <sup>54</sup>,

42.) the formation of a chemically generated hydrogen plasma with the observation of Lyman series in the EUV that represents an energy release about 10 times that of hydrogen combustion which is greater than that of any possible known chemical reaction<sup>55</sup>,

43.) the observation of line emission by the Institut für Niedertemperatur-Plasmaphysik e.V. with a 4° grazing incidence EUV spectrometer that was 100 times more energetic than the combustion of hydrogen<sup>56</sup>,

44.) the excessive increase in the Lyman emission upon the addition of helium or argon catalyst to a hydrogen plasma<sup>57</sup>,

45.) the observation of the characteristic emission from  $Sr^+$  and  $Sr^{3+}$  that confirmed the resonant nonradiative energy transfer of  $2 \cdot 27.2 \text{ eV}$  from atomic hydrogen to  $Sr^+$ <sup>58</sup>,

46.) the observation of anomalous plasmas formed with  $Sr$  and  $Ar^+$  catalysts at 1% of the theoretical or prior known voltage requirement with a light output per unit power input up to 8600 times that of the control standard light source<sup>59</sup>,

47.) the observation that the optically measured output power of gas cells for power supplied to the glow discharge increased by over two orders of magnitude depending on the presence of less than 1% partial pressure of certain catalysts in hydrogen gas or argon-

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<sup>53</sup> Reference Nos. 13, 47, 81

<sup>54</sup> Reference Nos. 12, 13, 47, 81,

<sup>55</sup> Reference Nos. 11-13, 15-16, 20, 24, 27, 32, 39, 42, 46-47, 51-52, 54-55, 57, 72, 81, 89, 91, 109

<sup>56</sup> Reference No. 14

<sup>57</sup> Reference Nos. 20, 31, 37, 43

<sup>58</sup> Reference Nos. 16, 52

<sup>59</sup> Reference Nos. 11, 16, 20, 23, 52, 72



hydrogen gas mixtures, and an excess thermal balance of 42 W was measured for the 97% argon and 3% hydrogen mixture versus argon plasma alone<sup>60</sup>,

48.) the observation that glow discharge plasmas of the catalyst-hydrogen mixtures of strontium-hydrogen, helium-hydrogen, argon-hydrogen, strontium-helium-hydrogen, and strontium-argon-hydrogen showed significant Balmer  $\alpha$  line broadening corresponding to an average hydrogen atom temperature of 25 - 45 eV; whereas, plasmas of the noncatalyst-hydrogen mixtures of pure hydrogen, krypton-hydrogen, xenon-hydrogen, and magnesium-hydrogen showed no excessive broadening corresponding to an average hydrogen atom temperature of  $\approx 3$  eV<sup>61</sup>,

49.) the observation that microwave helium-hydrogen and argon-hydrogen plasmas having catalyst  $Ar^+$  or  $He^+$  showed extraordinary Balmer  $\alpha$  line broadening due to hydrogen catalysis corresponding to an average hydrogen atom temperature of 110 - 130 eV and 180 - 210 eV, respectively; whereas, plasmas of pure hydrogen, neon-hydrogen, krypton-hydrogen, and xenon-hydrogen showed no excessive broadening corresponding to an average hydrogen atom temperature of  $\approx 3$  eV<sup>62</sup>,

50.) the observation that microwave helium-hydrogen and argon-hydrogen plasmas showed average electron temperatures that were high,  $30,500 \pm 5\% K$  and  $13,700 \pm 5\% K$ , respectively; whereas, the corresponding temperatures of helium and argon alone were only  $7400 \pm 5\% K$  and  $5700 \pm 5\% K$ , respectively<sup>63</sup>,

51.) the observation of significant Balmer  $\alpha$  line broadening of 17, 9, 11, 14, and 24 eV from rt-plasmas of incandescently heated hydrogen with  $K^+ / K^+$ ,  $Rb^+$ , cesium, strontium, and strontium with  $Ar^+$  catalysts, respectively, wherein the results could not be explained by Stark or thermal broadening or electric field acceleration of charged species since the measured field of the incandescent heater was extremely weak, 1 V/cm, corresponding to a broadening of much less than 1 eV<sup>64</sup>,

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<sup>60</sup> Reference No. 22

<sup>61</sup> Reference Nos. 16, 20, 30, 52, 72

<sup>62</sup> Reference Nos. 33-37, 43, 49, 60, 63-64, 69, 71, 73-74, 82, 84, 88

<sup>63</sup> Reference Nos. 34-37, 43, 49, 63, 67, 73

<sup>64</sup> Reference Nos. 39, 42, 46, 51-52, 54-55, 57, 72, 81, 89, 91, 108, 109

52.) calorimetric measurement of excess power of 20 mW/cc on rt-plasmas formed by heating hydrogen with  $K^+ / K^+$  and  $Ar^+$  as catalysts<sup>65</sup>,

53.) the observation of an energy balance of  $\Delta H = -17,925 \text{ kcal / mole } KNO_3$ , about 300 times that expected for the most energetic known chemistry of  $KNO_3$ , and  $-3585 \text{ kcal / mole } H_2$ , over 60 times the hypothetical maximum enthalpy of  $-57.8 \text{ kcal / mole } H_2$  due to combustion of hydrogen with atmospheric oxygen, assuming the maximum possible  $H_2$  inventory when  $KNO_3$  and Raney nickel were used as a source of  $K$  catalyst and atomic hydrogen, respectively, to produce the corresponding exothermic reaction<sup>66</sup>;

54.) the observation of rt-plasmas formed with strontium and argon at 1% of the theoretical or prior known voltage requirement with a light output per unit power input up to 8600 times that of the control standard light source as well as an excess power of 20 mW/cm from rt-plasmas formed by  $Ar^+$  as the catalyst in an incandescent-filament cell<sup>67</sup>,

55.) the Calvet calorimetry measurement of an energy balance of over  $-151,000 \text{ kJ / mole } H_2$  with the addition of 3% hydrogen to a plasma of argon having the catalyst  $Ar^+$  compared to the enthalpy of combustion of hydrogen of  $-241.8 \text{ kJ / mole } H_2$ ; whereas, under identical conditions no change in the Calvet voltage was observed when hydrogen was added to a plasma of noncatalyst xenon<sup>68</sup>,

56.) the observation that the power output exceeded the power supplied to hydrogen glow discharge plasmas by 35-184 W depending on the presence of catalysts from helium or argon and less than 1% partial pressure of strontium metal in noble gas-hydrogen mixtures; whereas, the chemically similar noncatalyst krypton had no effect on the power balance<sup>69</sup>,

57.) the observation that with the addition of 3% flowing hydrogen to an argon microwave plasma with a constant input power of 40 W, the gas temperature increased from 400°C to over 750°C; whereas, the 400°C temperature of a xenon plasma run under identical conditions was essentially unchanged with the addition of hydrogen<sup>70</sup>,

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<sup>65</sup> Reference Nos. 39, 81, 89, 108

<sup>66</sup> Reference No. 111

<sup>67</sup> Reference No. 72, 109

<sup>68</sup> Reference No. 31

<sup>69</sup> Reference No. 30

<sup>70</sup> Reference No. 43

58.) observations of power such as that where the addition of 10% hydrogen to a helium microwave plasma maintained with a constant microwave input power of 40 W, the thermal output power was measured to be at least 280 W corresponding to a reactor temperature rise from room temperature to 1200°C within 150 seconds, a power density of  $28 \text{ MW}/\text{m}^3$ , and an energy balance of at least  $-4 \times 10^5 \text{ kJ}/\text{mole } H_2$  compared to the enthalpy of combustion of hydrogen of  $-241.8 \text{ kJ}/\text{mole } H_2$ <sup>71</sup>,

59.) the observation of  $306 \pm 5 \text{ W}$  of excess power generated in  $45 \text{ cm}^3$  by a compound-hollow-cathode-glow discharge of a neon-hydrogen (99.5/0.5%) mixture corresponding to a power density of  $6.8 \text{ MW}/\text{m}^3$  and an energy balance of at least  $-1 \times 10^6 \text{ kJ}/\text{mole } H_2$  compared to the enthalpy of combustion of hydrogen of  $-241.8 \text{ kJ}/\text{mole } H_2$ <sup>72</sup>,

60.) the observation that for an input of 37.7 W, the total plasma power of the neon-hydrogen plasma measured by water bath calorimetry was 60.7 W corresponding to 23.0 W of excess power in  $3 \text{ cm}^3$ <sup>73</sup>,

61.) the observation of intense  $He^+$  emission and a total plasma power of a helium-hydrogen plasma measured by water bath calorimetry of 30.0 W for an input of 8.1 W, corresponding to 21.9 W of excess power in  $3 \text{ cm}^3$  wherein the excess power density and energy balance were high,  $7.3 \text{ W}/\text{cm}^3$  and  $-2.9 \times 10^4 \text{ kJ}/\text{mole } H_2$ , respectively<sup>74</sup>,

62.) in the comparison of helium-hydrogen plasmas sources, the observation that i.) with an input power of  $24.8 \pm 1 \text{ W}$ , the total plasma power of the Evenson microwave helium-hydrogen plasma measured by water bath calorimetry was  $49.1 \pm 1 \text{ W}$  corresponding to  $24.3 \pm 1 \text{ W}$  of excess power in  $3 \text{ cm}^3$  corresponding to a high excess power density and energy balance of  $8.1 \text{ W}/\text{cm}^3$  and over  $-3 \times 10^4 \text{ kJ}/\text{mole } H_2$ , respectively, ii.) with an input of 500 W, a total power of 623 W was generated in a  $45 \text{ cm}^3$  compound-hollow-cathode-glow discharge, iii.) less than 10% excess power was observed from inductively coupled RF helium-hydrogen plasmas, and iv.) no measurable heat was observed from MKS/Astex

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<sup>71</sup> Reference Nos. 34, 35

<sup>72</sup> Reference Nos. 50, 78

<sup>73</sup> Reference No. 76

<sup>74</sup> Reference Nos. 36, 63, 71, 73

microwave helium-hydrogen plasmas that corresponded to the absence of H Balmer line broadening<sup>75</sup>,

63.) the observation of energy balances of helium-hydrogen microwave plasmas of over 100 times the combustion of hydrogen and power densities greater than  $10 \text{ W/cm}^3$  measured by water bath calorimetry<sup>76</sup>,

64.) at the load matching condition of  $600 \Omega$ , the direct plasmadynamic conversion (PDC) of open circuit voltages of 11.5 V and  $\sim 200 \text{ mW}$  of electrical power with a 0.125 in diameter by 3/4 in long plasmadynamic electrode and a 140 G applied field corresponding to an extracted power density of  $\sim 1.61 \text{ W/cm}^3$  and an efficiency of  $\sim 18.8\%$ <sup>77</sup>,

65.) at the load matching condition of  $250 \Omega$ , the direct plasmadynamic conversion (PDC) of open circuit voltages of 21.8 V and 1.87 W of electrical power with a 0.125 in diameter by 3/4 in long plasmadynamic electrode and a 140 G applied field corresponding to an extracted power density of  $3.6 \text{ W/cm}^3$  and an efficiency of  $42\%$ <sup>78</sup>,

66.) the projection that the generation of electricity using magnetohydrodynamic (MHD) conversion of the plasma particle energy of small to mid-size chemically assisted microwave or glow discharge plasma (ca-plasma) power sources in the range of a few hundred Watts to several 10's of kW for microdistributed commercial applications appears feasible at 50% efficiency or better with a simple compact design<sup>79</sup>,

67.) the differential scanning calorimetry (DSC) measurement of minimum heats of formation of  $KHI$  by the catalytic reaction of  $K$  with atomic hydrogen and  $KI$  that were over  $-2000 \text{ kJ/mole } H_2$  compared to the enthalpy of combustion of hydrogen of  $-241.8 \text{ kJ/mole } H_2$ <sup>80</sup>,

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<sup>75</sup> Reference Nos. 84, 98, 104

<sup>76</sup> Reference Nos. 34-36, 50, 63, 71, 73, 76-78, 84, 92, 93, 101, 112

<sup>77</sup> Reference No. 48

<sup>78</sup> Reference No. 56

<sup>79</sup> Reference No. 40

<sup>80</sup> Reference No. 25

68.) the isolation of novel hydrogen compounds as products of the reaction of atomic hydrogen with atoms and ions which formed an anomalous plasma as reported in the EUV studies<sup>81</sup>,

69.) the synthesis and identification of a novel diamond-like carbon film terminated with  $CH(1/p)$  ( $H^+ DLC$ ) comprising high binding energy hydride ions was synthesized for the first time from solid carbon by a microwave plasma reaction of a mixture of 10-30% hydrogen and 90-70% helium wherein  $He^+$  served as a catalyst with atomic hydrogen to form the highly stable hydride ions and an energetic plasma<sup>82</sup>,

70.) the synthesis of polycrystalline diamond films on silicon substrates without diamond seeding by a very low power microwave plasma reaction of a mixture of helium-hydrogen-methane (48.2/48.2/3.6%) wherein  $He^+$  served as a catalyst with atomic hydrogen to form an energetic plasma with an average hydrogen atom temperature of 180-210 eV versus  $\approx 3$  eV for pure hydrogen and bombardment of the carbon surface by highly energetic hydrogen formed by the catalysis reaction may play a role in the formation of diamond<sup>83</sup>,

71.) the synthesis of polycrystalline diamond films on silicon substrates without diamond seeding by a very low power microwave plasma reaction of a mixture of argon-hydrogen-methane (17.5/80/2.5%) wherein  $Ar^+$  served as a catalyst with atomic hydrogen to form an energetic plasma with an average hydrogen atom temperature of 110-130 eV versus  $\approx 3$  eV for pure hydrogen and bombardment of the carbon surface by highly energetic hydrogen formed by the catalysis reaction may play a role in the formation of diamond<sup>84</sup>,

72.) the identification of a novel highly stable surface coating  $SiH(1/p)$  by time of flight secondary ion mass spectroscopy that showed  $SiH^+$  in the positive spectrum and  $H^-$  dominant in the negative spectrum and by X-ray photoelectron spectroscopy which showed that the  $H$  content of the  $SiH$  coatings was hydride ions,  $H^-(1/4)$ ,  $H^-(1/9)$ , and  $H^-(1/11)$  corresponding to peaks at 11, 43, and 55 eV, respectively, and showed that the surface was remarkably stable to air<sup>85</sup>,

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<sup>81</sup> Reference Nos. 6-10, 19, 25, 38, 41, 44-45, 60-62, 75, 81, 87, 90, 92, 93, 100, 101, 108, 110-112

<sup>82</sup> Reference No. 60

<sup>83</sup> Reference Nos. 64, 69, 88

<sup>84</sup> Reference Nos. 82, 88

<sup>85</sup> Reference Nos. 45, 61, 100

73.) the isolation of novel inorganic hydride compounds such as  $KHKHCO_3$  and  $KH$  following each of the electrolysis and plasma electrolysis of a  $K_2CO_3$  electrolyte which comprised high binding energy hydride ions that were stable in water with their identification by methods such as (i) ToF-SIMS on  $KHKHCO_3$  which showed inorganic hydride clusters  $K[KHKHCO_3]^+$  and a negative ToF-SIMS dominated by hydride ion, (ii) X-ray photoelectron spectroscopy which showed novel peaks corresponding to high binding energy hydride ions, and (iii)  $^1H$  nuclear magnetic resonance spectroscopy which showed upfield shifted peaks corresponding to more diamagnetic, high-binding-energy hydride ions<sup>86</sup>,

74.) the identification of  $LiHCl$  comprising a high binding energy hydride ion by time of flight secondary ion mass spectroscopy which showed a dominant  $H^-$  in the negative ion spectrum, X-ray photoelectron spectroscopy which showed  $H^-$  (1/4) as a new peak at its predicted binding energy of 11 eV,  $^1H$  nuclear magnetic resonance spectroscopy which showed an extraordinary upfield shifted peak of -15.4 ppm corresponding to the novel hydride ion, and powder X-ray diffraction which showed novel peaks<sup>87</sup>,

75.) the identification of novel hydride compounds by a number of analytical methods such as (i) time of flight secondary ion mass spectroscopy which showed a dominant hydride ion in the negative ion spectrum, (ii) X-ray photoelectron spectroscopy which showed novel hydride peaks and significant shifts of the core levels of the primary elements bound to the novel hydride ions, (iii)  $^1H$  nuclear magnetic resonance spectroscopy (NMR) which showed extraordinary upfield chemical shifts compared to the NMR of the corresponding ordinary hydrides, and (iv) thermal decomposition with analysis by gas chromatography, and mass spectroscopy which identified the compounds as hydrides<sup>88</sup>,

76.) the NMR identification of novel hydride compounds  $MH^*X$  wherein  $M$  is the alkali or alkaline earth metal,  $X$ , is a halide, and  $H^*$  comprises a novel high binding energy hydride ion identified by a large distinct upfield resonance<sup>89</sup>,

77.) the replication of the NMR results of the identification of novel hydride compounds by large distinct upfield resonances at Spectral Data Services, University of Massachusetts

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<sup>86</sup> Reference Nos. 6-7, 9, 38, 41

<sup>87</sup> Reference Nos. 44, 62

<sup>88</sup> Reference Nos. 6-10, 19, 25, 38, 41, 44-45, 60-62, 75, 81, 87, 90, 92, 93, 100, 108, 110-112

<sup>89</sup> Reference Nos. 10, 19, 41, 44, 62, 81, 108, 110-112

Amherst, University of Delaware, Grace Davison, and National Research Council of Canada<sup>90</sup>,

78.) the NMR identification of novel hydride compounds  $MH^*$  and  $MH_2^*$  wherein  $M$  is the alkali or alkaline earth metal and  $H^*$  comprises a novel high binding energy hydride ion identified by a large distinct upfield resonance that proves the hydride ion is different from the hydride ion of the corresponding known compound of the same composition<sup>91</sup>,

79.) the observation that the  $^1H$  MAS NMR spectrum of novel compound  $KH^*Cl$  relative to external tetramethylsilane (TMS) showed a large distinct upfield resonance at -4.4 corresponding to an absolute resonance shift of -35.9 ppm that matched the theoretical prediction of  $p = 4$ , and the novel peak of  $KH^*I$  at -1.5 ppm relative to TMS corresponding to an absolute resonance shift of -33.0 ppm matched the theoretical prediction of  $p = 2$ <sup>92</sup>,

80.) the observation that the predicted catalyst reactions, position of the upfield-shifted NMR peaks, and spectroscopic data for  $H^-(1/2)$  and  $H^-(1/4)$  were found to be in agreement<sup>93</sup>,

81.) the analysis by Infrared (FTIR) spectroscopy which eliminated any known explanation such as U centered H for the assignment of the extraordinary upfield-shifted NMR peak<sup>94</sup>,

82.) the isolation of fraction-principal-quantum-level molecular hydrogen  $H_2(1/p)$  gas by liquefaction using an ultrahigh-vacuum, liquid nitrogen cryotrap, and the observations of novel peaks by cryogenic gas chromatography, a higher ionization energy than  $H_2$  by mass spectroscopy, a substantial change in the EUV emission spectrum with deuterium substitution in a region where no hydrogen emission has ever been observed, and upfield shifted NMR peaks at 0.21, 2.18 and 3.47 ppm compared to that of  $H_2$  at 4.63 ppm<sup>95</sup>,

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<sup>90</sup> Reference Nos. 19, 81, 108, 110

<sup>91</sup> Reference Nos. 19, 81, 108, 110-112

<sup>92</sup> Reference No. 81, 108, 110-112

<sup>93</sup> Reference Nos. 81, 108, 110-112

<sup>94</sup> Reference Nos. 108, 110-112

<sup>95</sup> Reference Nos. 75, 87, 90, 92, 93, 94, 101, 112

83.) the observation of  $^1H$  NMR singlet peaks upfield of  $H_2$  with a predicted integer spacing of 0.64 ppm at 3.47, 3.02, 2.18, 1.25, 0.85, and 0.22 ppm identified as the consecutive series  $H_2(1/2)$ ,  $H_2(1/3)$ ,  $H_2(1/4)$ ,  $H_2(1/5)$ ,  $H_2(1/6)$ , and  $H_2(1/7)$ , respectively, and  $H_2(1/10)$  at -1.8 ppm wherein  $H_2(1/p)$  gas was isolated by liquefaction at liquid nitrogen temperature, by decomposition of compounds found to contain the corresponding hydride ions  $H^-(1/p)$ , and by permeation through a hollow nickel cathode<sup>96</sup>,

84.) the observation of excess enthalpy from a  $K_2CO_3$  electrolytic cell of a factor of two times that of the resistive power dissipation and  $^1H$  NMR singlet peaks upfield of  $H_2$  with a predicted integer spacing of 0.64 ppm at 3.49, 2.17, 1.25, 0.86, and 0.21 ppm which matched the consecutive series  $H_2(1/2)$ ,  $H_2(1/4)$ ,  $H_2(1/5)$ ,  $H_2(1/6)$ , and  $H_2(1/7)$ , respectively, and a higher ionizing molecular hydrogen recorded on the electrolysis gases collected in a hollow nickel cathode<sup>97</sup>,

85.) the observation of 1943  $cm^{-1}$  and 2012  $cm^{-1}$  peaks in the high-resolution (0.5  $cm^{-1}$ ) FTIR spectrum (490-4000  $cm^{-1}$ ) of  $KH^*I$  having a peak assigned to  $H^-(1/4)$  that matched the predicted frequencies of ortho and para- $H_2(1/4)$ <sup>98</sup>.

86.) the observation of the 1943/2012  $cm^{-1}$ -peak-intensity ratio of 3:1 in the high resolution (0.5  $cm^{-1}$ ) FTIR spectrum (1875-2060  $cm^{-1}$ ) of  $KH^*I$  which is characteristic of ortho-para hydrogen splitting wherein the ortho-para splitting of 69  $cm^{-1}$  matched that predicted<sup>99</sup>,

87.) the observation of rotational lines in the 145-300 nm region from atmospheric pressure 12.5 keV electron-beam excited argon-hydrogen plasmas where the unprecedented energy spacing of  $4^2$  times that of hydrogen established the internuclear distance as 1/4 that of  $H_2$  and identified  $H_2(1/4)$ <sup>100</sup>,

88.) the observation of emission from 12.5 keV-electron-beam-excited  $KH^*Cl$  having  $H^-(1/4)$  by NMR that matched the rotational emission lines of interstitial  $H_2(1/4)$  and further

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<sup>96</sup> Reference Nos. 98, 101, 103-104, 112

<sup>97</sup> Reference Nos. 103-104.

<sup>98</sup> Reference Nos. 110-112.

<sup>99</sup> Reference Nos. 110-112.

<sup>100</sup> Reference Nos. 98, 101, 104, 110-112.



matched the rotational frequency of  $H_2(1/4)$  observed by FTIR and by electron-beam excitation of the argon-hydrogen plasmas<sup>101</sup>.

Applicant again respectfully demands that the Secret Committee consider and evaluate in detail all of this record evidence, which, to date, it has largely ignored. The scientific data disclosed in this extensive body of evidence was collected and peer-reviewed with great care by a group of highly qualified scientists capable of understanding every detail of Applicant's technology. The very least the Committee can do is to also carefully evaluate that data in detail, article by article, with an open mind so that Applicant is given a full and fair opportunity to present his case. If and when the Committee finally does so, Applicant believes it will find that the evidence overwhelmingly proves the existence of lower-energy hydrogen in accordance with his disclosed invention.

If, on the other hand, the Committee should find true fault with any of that data on legitimate scientific grounds—not the kind of nitpicking Applicant has seen on theoretical grounds—it should communicate as much to afford Applicant the opportunity to respond. Such scientific give-and-take is the only way to advance the prosecution of this case.

Unfortunately, with continued prosecution of this and BlackLight's other applications, a far different pattern has emerged. The Committee continues to set arbitrary and capricious hurdles designed to avoid considering Applicant's conclusive experimental evidence and thereby block his patents from issuing. Each time Applicant clears one of these hurdles, the Committee merely raises the bar by setting new standards.

For instance, the Committee initially alleged that Applicant's disclosed hydrogen chemistry, which forms lower-energy hydrogen, related to the controversial concepts of "perpetual motion" and "cold fusion." When Applicant exposed those allegations as utter nonsense, the Committee quickly abandoned its indefensible position, arguing instead that BlackLight's lower-energy hydrogen technology violated unidentified laws of physics. Then, to cover up its failure to identify even a single physical law that was

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<sup>101</sup> Reference Nos. 111-112.

supposedly being violated, the Committee improperly placed the burden on Applicant to do so: "in order to establish enablement, applicant bears the burden of providing the accepted scientific laws wrong or incomplete." When Applicant showed that just the opposite is true—that Applicant's novel hydrogen chemistry complies with all physical laws, even at atomic and sub-atomic levels—the Committee once again backpedaled. The Committee then advanced vague assertions that Applicant's lower-energy hydrogen violated "ideas" of modern science and, later, that his technology contradicted "beliefs" in the scientific community.

The only consistency found throughout this myriad of contrived standards is the Committee's use of each to excuse it from fairly considering and evaluating Applicant's scientific evidence that lower-energy hydrogen does indeed exist. Instead, the Committee prefers engaging in a theoretical debate to the exclusion of that evidence, pitting its favored quantum theory, with all of its far-fetched and disproved predictions, against Applicant's theory of classical quantum mechanics that correctly predicts the formation of lower-energy hydrogen.

Applicant has willingly engaged the Committee in this theoretical debate, and will continue to do so if necessary, even though the patent laws do not require that an inventor understand the precise theoretical basis for why his invention works. All the law requires is that he disclose his invention in sufficient detail to enable one of ordinary skill in the art how to practice it. Applicant has done precisely that and the Committee has failed in its burden to show otherwise.

Of course, the debate over these competing theories can go on indefinitely without resolution, which may be the Committee's strategy. Engaging in that intellectual exercise, however, will not—indeed cannot—definitively settle the question of whether practicing Applicant's disclosed hydrogen chemistry results in the formation of lower-energy hydrogen. Like any good theoretical debate, this one can only be tested and ultimately settled by fairly analyzing the unprecedented amount of real-world experimental evidence Applicant has submitted conclusively confirming the lower energy states of hydrogen.

Applicant has expended tens of millions of dollars amassing this experimental evidence. The least the Committee can do is properly consider it. The Committee,

however, takes the extreme and erroneous position that the existence of lower-energy hydrogen is so incredible as to be theoretically impossible—at least according to its misguided view of quantum mechanics—and, therefore, it need not seriously analyze any contrary evidence.

When Applicant pointed out to the Committee that its refusal to consider Applicant's supporting evidence, under the presumption that his novel hydrogen technology was *per se* incredible, violated well-established patent laws and procedures, the Committee tried to deny that it had ever taken the position that the existence of lower-energy hydrogen was impossible.<sup>102</sup> After Applicant exposed the disingenuousness of those denials, the Committee finally dropped all pretenses and now readily admits that it has dismissed the totality of Applicant's submitted scientific evidence based on the presumption that Applicant's pioneering technology is impossible. According to the Committee "all of applicant's data cannot prove what is not theoretically possible" and in fact "applicant's own experimental evidence of record detract[s] from the central issue that the hydrino does not theoretically exists." [See e.g. May 12, 2005 Advisory Action; U.S. Ser. No. 09/669,877 (emphasis added).] Applicant is hard pressed to imagine an approach to patent examination any more arbitrary and capricious than that.

In the few isolated instances in which the Committee has addressed Applicant's evidence, it offers far-fetched reasons for dismissing it without a fair hearing, again demonstrating its arbitrary and capricious approach to examination of this case. One prominent example occurred during the February 21, 2001 Interview held in all of BlackLight's then-pending lower-energy hydrogen applications, which was led by Examiner Vasudevan Jagannathan—one of the few Committee members Applicant has been able to successfully identify. At that interview, Applicant had a brief opportunity to

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<sup>102</sup> For instance, Committee-member Souw tried to claim:

Contrary to Applicant's allegation on pg. 13, 1<sup>st</sup> full paragraph, lines 2-4, the PTO's view is not at all that the existence of lower-energy hydrogen were impossible, but instead, that (a) Applicant's invention is not supported by any experimental fact or evidence, and (b) the underlying theory (i.e., GUT/CQM) fails to support the invention, because it contains too many flaws. [Souw Appendix at p. 3 attached to the Committee's Final Office Action mailed August 24, 2004 in Applicant's U.S. Ser. No. 08/467,051 (emphasis added).]

present some of his scientific evidence, including spectroscopic data that is extraordinarily reliable in analyzing chemical compositions. Such data amounts to a "chemical fingerprint" that cannot be seriously disputed. Despite the conclusiveness of that evidence, Examiner Jagannathan dismissed it out of hand as nothing more than "a bunch of squiggly lines."

To put the absurdity of that comment in context, the PTO rationalized its withdrawal of BlackLight's five allowed patent applications, in part, by citing a January 12, 2000 article written by Dr. Robert Park, spokesman for one of Applicant's main competitors, the American Physical Society (APS). [March 22, 2000 Decision at page 7 (Attachment G)] In that article, Dr. Park made the following startling statement:

The energy states of atoms are studied through their atomic spectra—light emitted at very specific wavelengths when electrons make a jump from one energy level to another. The exact prediction of the hydrogen spectrum was one of the first great triumphs of quantum theory; it is the platform on which our entire understanding of atomic physics is built. The theory accounts perfectly for every spectral line.

There is no line corresponding to a "hydrino" state. Indeed there is no credible evidence at all to support Mills' claim. [See Attachment J (emphasis added)]

The incredible irony here—one that cannot be easily overlooked—highlights once again the extreme arbitrary and capricious approach the Committee has taken in examining this and other BlackLight applications. There is no question that the vitriol espoused by Dr. Park in his cited *Post* article was, at least, partially responsible for the PTO's suspect withdrawal of the five allowed BlackLight applications from issue. And yet, despite the fact that the very article the PTO relies upon to deny Applicant his patents recognizes that spectroscopic data is extraordinarily reliable—indeed, the "platform on which our entire understanding of atomic physics is built"—the Committee nonetheless continues to cavalierly ignore or dismiss that same data when submitted by Applicant.

Out of exasperation, Applicant queried Examiner Jagannathan during the February 21 Interview as to what type and quality of evidence would convince him that lower-energy hydrogen exists. In response, the Examiner required that Applicant

publicly divulge confidential information by publishing his experimental evidence in peer-reviewed scientific journals for that evidence to be considered reliable. As detailed above, Applicant has more than met this newly created "publication" standard for considering his experimental evidence by submitting over 100 scientific papers for publication, even though the PTO's rules and procedures impose no such requirement. So far, over 60 of these papers have completed and passed the peer-review process conducted by highly qualified Ph.D. referees.

Applicant's experimental evidence has been extensively peer-reviewed and published in the following esteemed journals:

Applied Physics Letters  
Chemistry of Materials  
Electrochimica Acta  
European Journal of Physics D  
European Physical Journal: Applied Physics  
Fusion Technology Journal of New Materials for Electrochemical Systems  
IEEE Transactions on Plasma Science  
International Journal of Hydrogen Energy  
Journal of Applied Physics<sup>103</sup>  
Journal of Material Science  
Journal of Molecular Structure  
Journal of Optical Materials  
Journal of Plasma Physics  
Journal of Physics D: Applied Physics  
Journal of Quantitative Spectroscopy and Radiative Transfer  
Journal of New Materials for Electrochemical Systems  
New Journal of Physics  
Physics Essays  
Plasma Sources Science and Technology  
Solar Energy Materials & Solar Cells  
Thermochimica Acta  
Vibrational Spectroscopy

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<sup>103</sup> Applicant notes that the *Journal of Applied Physics* is the very same journal cited by the Committee as credible evidence that Dr. Souw, one of its premier members, is supposedly qualified to evaluate Applicant's novel hydrogen technology. [See *infra*.]

Additionally, Applicant's experimental evidence has been submitted for peer-review and publication in the following esteemed journals:

Acta Physica Polonica A  
AIAA Journal  
Anuoles de la Fondation Louis de Broglie  
Brazilian Journal of Physics  
Canadian Journal of Physics  
Central European Journal of Physics  
Chemical Engineering Science  
Contributions to Plasma Physics  
Current Applied Physics  
Europhysics Letters  
Fizika A  
Foundations of Science  
Journal of Applied Spectroscopy  
Journal of Mathematical Physics  
Journal of Materials Research  
Journal of Physical Chemistry A  
Journal of Physical Chemistry B  
Journal of Vacuum Science & Technology A  
Materials Characterization  
Materials Chemistry and Physics  
New Journal of Chemistry  
Physical Review B  
Physica Scripta  
Spectrochimica Acta Part B: Atomic Spectroscopy  
Thin Solid Films  
Vacuum

Once again, however, the Secret Committee has raised the bar to patentability by arbitrarily and capriciously ignoring this vast body of evidence that it required

Applicant to submit. The Committee apparently believes that its anonymous members are better qualified than the numerous skilled PhD's who peer-reviewed and approved the contents of Applicant's articles confirming the existence of lower-energy hydrogen.

The PTO's mishandling of the experimental evidence of record in this case is but one of several improper actions that have adversely effected Applicant's patent rights.

Others include:

- (1) illegally withdrawing or threatening to withdraw other copending BlackLight patent applications from issue, after initially allowing all claims, under highly suspicious circumstances that suggest likely interference by BlackLight's competitors;
- (2) improperly examining this application by Secret Committee, effectively denying Applicant the right to confront the persons involved in that examination, to assess their qualifications and biases, and to ascertain whether those persons include BlackLight's competitors or other improper outside influences, in breach of PTO confidentiality requirements; and
- (3) refusing reasonable requests by Applicant and five U.S. Senators to divulge information relating to the events that triggered the PTO's withdrawal action, and the identity of all PTO employees and non-PTO personnel involved in examining BlackLight's applications.

These improper actions bear directly upon the prosecution of BlackLight's pending applications, yet Applicant's good faith efforts to discuss and resolve these and other outstanding issues have been either ignored or rejected out of hand. One of Applicant's overtures was communicated directly to then PTO Director James E. Rogan in a letter dated December 21, 2001, from BlackLight board member Dr. Shelby T. Brewer. Dr. Brewer received his Ph.D. in Nuclear Engineering from M.I.T. and served as Assistant Energy Secretary in the Reagan administration. [See Attachment A]

As stated in his letter, Dr. Brewer's reasons for appealing to Director Rogan were motivated not only by his fiduciary duty to protect BlackLight's interests, but also by a sincere desire to avoid unnecessary embarrassment to the PTO over these lingering issues if left unresolved. Dr. Brewer appealed for a meeting with Director Rogan in an attempt to bring some closure to this matter in a way that might mutually benefit both sides.

Despite the urgency of his plea, Dr. Brewer waited over four months before finally receiving a response to his request for a meeting. In a curt letter dated April 24, 2002, from the Director's Chief-of-Staff, Jason C. Roe, the PTO advised: "We appreciate your interest in this matter, but, unfortunately, must decline your request for a meeting due to the fact that the USPTO is not in a position to discuss the issue at the present time." [See Attachment A] The PTO's response, however, merely begs the question: if not now, when will it be in a position to have these discussions?

This negative response, while disappointing, was hardly surprising. In refusing to meet with Applicant, the PTO continues to treat prosecution of this and BlackLight's other copending cases as an adversarial proceeding. While the PTO may believe it is justified in shrouding its untoward actions under a cloak of secrecy and remaining answerable to no one, that approach does little to preserve public confidence in the patent process. Only by openly engaging Applicant in mutually beneficial discussions of all the issues in this case can the PTO ever hope to achieve that worthy goal. Applicant therefore implores the PTO to reconsider its policies and adopt a more flexible and cooperative approach by agreeing to meet with Applicant to discuss the handling of this and other pending BlackLight applications before taking any further action.

Perhaps the PTO sees no need to modify its approach, buoyed by the Federal Circuit's June 28, 2002 Decision upholding its withdrawal action that cancelled issuance of BlackLight's allowed patent applications. See *BlackLight Power, Inc. v. Director James E. Rogan*, 63 USPQ2d1534 (Fed. Cir. June 28, 2002) [Attachment B]. The Federal Circuit ruled, among other things, that an "emergency situation" trumped the controlling regulation requiring the PTO to determine the unpatentability of one or more claims before it withdrew the '294 application from issue so that the PTO's mere "concern" over patentability provided adequate basis for the withdrawal. That Decision, aside from the fact that it is erroneous,<sup>104</sup> does not even begin to resolve other issues that touch on the merits of this case.

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<sup>104</sup> Applicant believes that the Federal Court's opinion is erroneous due, in part, to its misreading of a concurring opinion of one Justice in a 38-year-old Supreme Court case to support its holding that this supposed "emergency situation"—a finding that was not supported by the record or even argued by the PTO—justified the PTO's withdrawing BlackLight's copending '294 application from issue on February 17, 2000, after payment of the issue fee. See *BlackLight Power* at page 7 citing *Baltimore & Ohio Railroad*



One such issue is how this alleged "emergency situation" arose in the first place, *i.e.*, how the PTO became aware of BlackLight's issued U.S. Patent No. 6,024,935 (the '935 patent) that supposedly raised "concerns" about other pending applications. That issue apparently was not important to Associate Solicitor Kevin Baer who defended the PTO's conduct by arguing to the District Court: "I would even say, Your Honor, you could imagine in our head any scenario of how we learned about it. A blimp flying over us. It doesn't matter, because what matters, Your Honor, is the decision [to withdraw] itself." [May 22, 2000 Transcript at 22 (Attachment K, Tab E)]

Judge Sullivan, however, was apparently unimpressed by those comments, noting in footnote 10 of his opinion that he was "troubled by several steps in the PTO's process" and advising the PTO to "examine its patent issuance process so that their normal operations are not compromised by such seemingly suspicious procedures." [See 109 F.Supp. 2d at 53, n.10 (See Attachment L)]

While the PTO may be unconcerned how it learned of the '935 patent, Applicant considers that information critically important. If, for instance, competitors were somehow involved in events leading to the withdrawal of BlackLight's allowed applications and, perhaps, in the subsequent prosecution of those and other applications, that information would relate directly to the credibility of the rejections entered in those cases, including this one. Applicant therefore renews his request for a

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*Co. v. United States*, 386 U.S. 372, 421 (1964) (Brennan, J., concurring) (recognizing the importance of leaving the Interstate Commerce Commission (ICC) great flexibility to deal with emergency situations to avoid serious damage to the national transportation system, but finding no pressing need that justified the ICC's action). The Federal Circuit stretched that case way beyond the limits of Supreme Court precedent that requires government agencies to strictly follow statutory and regulatory guidelines.

Incredibly, at oral argument, the PTO did not even suggest that an emergency situation had forced it to withdraw this application from issue on February 17, 2000. To the contrary, PTO Solicitor John M. Whealan argued that no withdrawal—emergency or otherwise—occurred on that date and admitted that, if the Court found otherwise, his case would be seriously compromised. This was because, at that time, the PTO could not locate the patent file and admittedly could not have made a determination of unpatentability of one or more claims as required by the controlling regulation. See 37 C.F.R. § 1.131(b)(3); MPEP § 1308 (7<sup>th</sup> Ed., Rev. 1, Feb. 2000). To avoid an adverse ruling, Solicitor Whealan sought refuge outside the administrative record, suggesting for the first time that the PTO had used the wrong form in mistakenly notifying Applicant on February 17 that his application had been withdrawn. Then, again without evidentiary support, the Solicitor tried to convince a skeptical Court that Director Kepplinger, in consultation with the Examiner, had made an unpatentability determination sometime later, after Applicant had voluntarily supplied the PTO with a copy of the application—hardly an emergency situation if it were true.

full accounting of how, out of the thousands of patents the PTO issues every week, his '935 patent came to its attention, thus leading to the withdrawal of BlackLight's allowed applications.

Applicant believes that concerns over outside influences on the prosecution of his applications are fully justified. Following the PTO's withdrawal action, counsel immediately investigated the facts and circumstances surrounding that action by questioning various PTO personnel. In discussions with Director Esther Keplinger, she admitted to counsel that the withdrawal was a reaction to perceived heat—a "firestorm" as she put it—the PTO had received from an undisclosed outside source. Director Keplinger further indicated that the withdrawal occurred only after BlackLight's '935 patent had been brought to the attention of then-Director Q. Todd Dickinson by Gregory Aharonian, another PTO outsider well known for publicly attacking issued U.S. patents.<sup>105</sup>

Director Keplinger's revelations are truly disturbing in that they describe what is essentially a newly created non-statutory reexamination procedure for opposing the issuance of patents never envisioned by Congress. *Compare* 35 U.S.C. §§ 301-307 (patent reexamination statutes).

Following the PTO's drastic withdrawal action, Applicant discovered other reliable information suggesting the likelihood of outside interference with BlackLight's patent applications and breaches of the PTO's duty to maintain the confidentiality of those applications. Applicant initially learned that Dr. Peter Zimmerman, former Chief Scientist for the State Department, had published an Abstract of an upcoming speech to the American Physical Society (APS)—a BlackLight competitor—boasting that his Department and the Patent Office "have fought back with success" against BlackLight. [See Attachment K, Tab C] In conversations with BlackLight's counsel, Dr. Zimmerman admitted that he had received information concerning BlackLight's applications through e-mails from Dr. Robert Park, spokesman for the APS, who told him of a contact in the

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<sup>105</sup> See Applicant's February 28, 2000 letter to Director Keplinger documenting telephone and personal conversations between her and Applicant's counsel regarding improper outside influence that precipitated the withdrawal of BlackLight's five allowed applications. The PTO cited this letter in its March 22, 2000 Decision affirming its withdrawal action. [See Attachment G]

PTO referred to by Dr. Park as "Deep Throat" with access to confidential patent information. [See Attachment K, Tab C]

An *APS News Online* bulletin, dated September 2002, suggests that Dr. Park is maintaining his questionable PTO contacts, apparently with the agency's blessing:

### **APS E-Board Passes Resolution on Perpetual Motion Machines**

The APS Executive Board approved a resolution at its June 2002 meeting in Annapolis, MD, affirming the fraudulent nature of claims of perpetual motion machines.

The resolution was deemed necessary because of a recent increase in patent applications for such devices. Robert Park, APS Director of Public Information and author of the weekly electronic newsletter, "What's New," reported that the US Patent Office has received several patent applications for perpetual motion machines during the first six months of this year alone. [Park's 2000 book, *Voodoo Science*, devoted considerable space to the phenomenon of such devices throughout history.] The text of the APS resolution follows.

The Executive Board of the American Physical Society is concerned that in this period of unprecedented scientific advance, misguided or fraudulent claims of perpetual motion machines and other sources of unlimited free energy are proliferating. Such devices directly violate the most fundamental laws of nature, laws that have guided the scientific progress that is transforming our world.

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[Attachment Q (emphasis added)] Dr. Park's knowledge of the number of pending patent applications filed in the PTO directed to a particular subject matter—information that is supposedly kept confidential—raises additional questions as to his activities in interfering with the prosecution of U.S. patent applications.<sup>106</sup>

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<sup>106</sup> Not coincidentally, the Committee initially attacked the operability of Applicant's invention by mischaracterizing it as a "perpetual motion machine" and, therefore, *per se* unpatentable. The Committee quickly withdrew that line of attack after Applicant showed it was completely lacking in any merit.

Of course, this should come as no surprise since Dr. Park has basically admitted his direct involvement in BlackLight's patent affairs, as evidenced by the September 6, 2002 issue of *What's New* he authored and published on the APS website:

The status of BlackLight Power's intellectual property is fuzzier than ever. BLP was awarded Patent 6,024,935 for "Lower-Energy Hydrogen Methods and Structures," a process for getting hydrogen atoms into a "state below the ground state". . . . You might expect these shrunken hydrogen atoms, called "hydrinos," to have a pretty special chemistry. Do they ever! Indeed, a second patent application titled "Hydride Compounds" had been assigned a number and BLP had paid the fee. Several other patents were in the works. That's when things started heading South. Prompted by an outside inquiry (who would do such a thing?), the patent director became concerned that this hydrino stuff required the orbital electron to behave "contrary to the known laws of physics and chemistry." The Hydride Compounds application [the '294 application] was withdrawn for further review and the other patent applications were rejected. [September 6, 2002 Online Newsletter of Dr. R. Park, *What's New* (Attachment C) (emphasis added)]

Dr. Park's startling admission was confirmed two weeks later in the September 20, 2002 issue of the *Online Newsletter* published by the James Randi Educational Foundation (JREF). In it, James Randi gleefully boasted about Dr. Park's contacting the Patent Office with the express purpose of sabotaging Applicant's patent rights:

But why, hard on the heels of re-examining other questionable patents (see three weeks ago on this page), would the Patent Office have happened upon this particular one [BlackLight's withdrawn '294 application], when there are so many in this category? The secret can be inferred from Bob Park's weekly column, where we find: "Prompted by an outside inquiry (who would do such a thing?) . . ." That rascal!

The very fact that the Patent Office has paid heed to the complaints that Park, the JREF, and others have made, speaks well for rationality. Let's hope that we can look forward to many quack devices and systems being re-evaluated. Let's see a lot more of this "extraordinary action" from the Director. As for BlackLight Power, says Park, "Their long-awaited IPO may have to wait a little longer." [September 20, 2002 Online Newsletter of the JREF, *Swift* (Attachment C) (emphasis added)]

Despite all of this overwhelming incriminating evidence of improper outside interference by competitors with an administrative patent proceeding—a possible criminal offense—the PTO continues to ignore this matter.

Apparently, this is not the first time that Dr. Park, James Randi and PTO officials have been embroiled in a patent controversy such as this one involving improper interference with a patent proceeding. Less than a year before Applicant's five allowed applications were withdrawn from issue in February 2000, the PTO was caught up in another scandal of sorts involving the issuance of U.S. Patent Nos. 5,748,088 and 6,011,476, granted on a device that can identify the obscured location of living entities. Following issuance of the '088 patent, Dr. Park published in his *What's New* newsletter inaccurate, disparaging remarks, which were picked up by James Randi on his JREF website, concerning the operation and reliability of the claimed invention. [See Attachment H] An article published in *Science Magazine* during the pendency of the '476 patent also reported on the controversy and the involvement of Sandia National Labs (SNL) in the testing of the device. [Attachment D]

SNL's involvement and the disclosure of confidential information to David Voss, the author of the *Science* article, was itself the subject of some controversy and resulted in the issuance of an internal PTO memorandum that was placed in the '476 patent file. In that memorandum, the PTO felt compelled to reiterate its policy forbidding PTO employees from making public disclosures concerning pending patent applications:

PTO MEMORANDUM FOR ALL EMPLOYEES: MEDIA CONTACT POLICY

Posted Date: 06/25/99  
Removal Date: 07/06/99

UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY AND COMMISSIONER OF PATENTS AND  
TRADEMARKS  
Washington, D.C. 20231

June 22, 1999

99-42

MEMORANDUM FOR All Employees

FROM: Acting Assistant Secretary of Commerce and Acting  
Commissioner of Patents and Trademarks

SUBJECT: Media Contact Policy

Since a memorandum on this subject was first issued several years ago, thousands of new employees have joined the PTO. Therefore, it is a good time to reiterate PTO policy concerning employee contact with members of the media including, but not limited to, those in print, broadcast, cable, and online publications.

All requests, including telephone and e-mail, from members of the media for interviews, tours, and appearances should be directed to the Office of Public Affairs (Richard Maulsby or Brigid Quinn). Public Affairs will then determine the appropriate Office response for such requests and arrange for all interviews and any other meetings with the media. A member of the Public Affairs staff may attend interviews and meetings.

This policy applies only to contact with the media, not to interactions with customers. Any questions about media contact should be directed to the Office of Public Affairs at 305-8341.

Additionally, MPEP section 1701 and TMEP section 1801 specify that Office personnel should not comment on the validity or enforceability of any U.S. patent or trademark registration. These sections also caution employees about answering other particular inquiries concerning U.S. patents or trademark registrations. Any questions on this policy should be directed to your supervisor or to the MPEP Editor at 305-8813 for patents or to the Office of the Assistant Commissioner for Trademarks at 308-8900. [Attachment E]

Curiously, SNL is where Dr. Park previously served as head of its Surface Physics Division, leading Applicant to wonder whether SNL, or any of its sister labs, have had any similar involvement in the examination of this and other BlackLight applications. Applicant's curiosity on this point is further heightened by the fact that Examiner Bernard Souw, a former employee with Brookhaven National Labs, is a premier member of the Secret Committee who has been engaged in the examination of BlackLight's patent applications for some time now. [See, e.g., App'n Ser. No. 09/513,768] As discussed below, Examiner Souw's activities as lead scientist for a company he owns in competition with BlackLight, while simultaneously examining BlackLight's patent applications, raises a genuine conflict of interest, thus adding further cause for concern over outside interference with Applicant's patent rights.

If, as Applicant suspects, the PTO has conferred with others having ties to the APS, like Dr. Park or Dr. Zimmerman, or to other BlackLight competitors in withdrawing or rejecting BlackLight's applications, that information would be highly relevant and thus must be disclosed. Obviously, knowing the identity and potential biases of all persons providing input or otherwise involved in rejecting BlackLight's applications, especially those with competing interests, bears directly on the credibility of those rejections. This point could not have been made more clear than the Committee's adoption of Examiner Souw's biased views in formulating its rejections in this case.

Applicant has, on numerous occasions, disclosed to PTO officials information relating to Dr. Park's undermining of BlackLight's patent rights, as relayed in Dr. Brewer's December 21, 2001 letter to then PTO Director Rogan, only to be ignored. [Attachment A. See also, for example, January 19, 2001 Letter to Director Kepplinger (Attachment K )] As Dr. Brewer explained in his letter, BlackLight is obviously concerned, among other things, that the PTO may have once again breached its duty to maintain confidentiality of U.S. patent applications under 35 U.S.C. § 122, 18 U.S.C. § 2071, 37 C.F.R. § 1.14, and M.P.E.P. § 101. The PTO's curt statement that it is "not in a position to discuss the issue at the present time" does little to allay those concerns.

Dr. Brewer further expressed in his letter distress over the suspected compromise of Applicant's patent rights to his novel hydrogen chemistry by a group of physicists with a vested interest in maintaining federal funding for projects based on a competing scientific theory and concern that those physicists continue to exert improper influence over the prosecution of BlackLight's pending applications. Those suspicions are only fueled by continued PTO silence on these issues while it undercuts Applicant's patent rights based on statements of competitors like Dr. Park. For instance, in the March 22, 2000 Decision justifying its withdrawal of Applicant's allowed patent applications, the PTO relied, in part, on a *Washington Post* article written by Dr. Park only slightly more than a month prior to the withdrawal:

While petitioner in the accompanying letter points to favorable testimonials from scientists and entrepreneurs regarding the "revolutionary technology" that the instant application is asserted to embody, this does not establish that either the Director, Technology Center 1700, or the Director, Special Programs Law Office, committed reversible error, nor

that the Notice should be withdrawn. In contrast, mainstream newspapers have reported this same "revolutionary technology" is accompanied by controversy in the scientific community. See Baard et al., Scientists and entrepreneurs have lots of ideas about new sources of energy; some may even be practical, Wall St. J., Sept. 13, 1999, at R16; **Park, Perpetual motion; still going around, Washington Post, Jan. 12, 2000, at H3.** [March 22 Decision at 7 (Attachment G)]

Applicant is naturally skeptical that this timing was simply a coincidence. Regardless, the mere fact that the PTO would rely on any competitor to "bad-mouth" BlackLight's technology is troubling. That it relied on Dr. Park of all people, known for conducting "hatchet jobs" on new technologies that threaten federal funding for the physicists he represents, is contemptible.

The same *Washington Post* that ran Dr. Park's libelous article rebuked its less than credible author in a subsequent article confirming his reputation for engaging in what it described a "search-and-destroy mission" against inventors and scientists who seek to advance the bounds of science. [See Article dated June 25, 2000 (Attachment M)] To quote the article's exact words, "Park's anger permeates his rebuttals, which border on character assassination." Noting that "thoroughness is not Park's strong suit," the article goes on to suggest that his intentions may be less than honorable:

Park's failure to gather first-hand data is unfortunate, but his selective omissions are far more serious. In at least one case, he violated basic principles of journalism and science itself by apparently suppressing information that conflicts with his foregone conclusion. . . . Such tactics are reminiscent of the behavior of a zealous DA who is so convinced that a suspect is guilty that he feels entitled to withhold some information from the jury.

Dr. Park's competitive motives in attacking BlackLight's novel hydrogen chemistry, and thereby undermining its patent rights, are clear, as further recognized by the *Post* article in its description of Dr. Park as "a Washington lobbyist and PR flack for the American Physical Society." The article goes on to warn of the serious effects a rush to judgment can have without first-hand review of experimental evidence:

This is a serious matter, since even poorly documented vitriol can jeopardize a scientist's reputation and future funding if it is disseminated with the complicity of a respected organization such as the American Physical Society.



Incredibly, in rationalizing its withdrawal action, the PTO pays tribute to a "hatchet man" like Dr. Park, who represents a competitor intent on sabotaging BlackLight's patent rights, by citing his hostile statements against BlackLight. Yet, in explaining the issuance of BlackLight's '935 patent, the PTO publicly denigrates its entire examining corps, previously known for their careful study of experimental evidence in deciding whether to issue U.S. patents:

[P]atent examiners do review [patent applications]. Unfortunately, patent examiners are swamped and sometimes things slip through. [Statement of Associate Solicitor Baer in *BlackLight Power, Inc. v. Q. Todd Dickinson*, May 22, 2000 Tr. at 7 (Attachment K, Tab A)]

[E]xaminers are under tremendous pressure to produce work, and if they're going to approve [an application], they just approve it and kind of let it out the door. [May 22, 2000 Tr. at 48 (Attachment K, Tab A)]

As Dr. Brewer pointed out in his December 21, 2001 letter to Director Rogan, the PTO, in making these outrageous public statements, undercuts the statutory presumption of validity that has attached to every issued U.S. patent for well over 50 years:

**Presumption of validity; defenses**

A patent shall be presumed valid. Each claim of a patent (whether in independent, dependent, or multiple dependent form) shall be presumed valid independently of the validity of other claims; dependent or multiple dependent claims shall be presumed valid even though dependent upon an invalid claim. The burden of establishing invalidity of a patent or any claim thereof shall rest on the party asserting such invalidity.

Underlying this statutory presumption is the premise of administrative regularity, which presumes that well-trained examiners with expertise in their respective fields properly carry out their examination duties by issuing only valid patents. See, e.g., American Hoist & Derrick Co. v. Sowa & Sons, Inc., 725 F.2d 1350, 1359 (Fed. Cir. 1984). This presumption was, in fact, confirmed by the capable work of Examiners

Langel and Kalafut who, with over 50 years of experience between them, examined and allowed Applicant's '935 patent, along with BlackLight's withdrawn applications.<sup>107</sup>

As succinctly stated in Dr. Brewer's letter, Solicitor Baer's statements on behalf of the PTO should be alarming to just about everyone, with the possible exception of accused patent infringers, and most certainly do not reflect well on an agency charged with maintaining the integrity of the patent system. Applicant felt that a meeting with Director Rogan to secure a retraction of those statements would be mutually beneficial to both sides. Yet once again, inexplicably, the PTO was not, and presumably is still not, prepared to discuss this issue.

These and other unfair assaults on Applicant's patent rights leave him to ponder: What would motivate the PTO to conduct itself with such total disregard for U.S. patent laws and regulations governing its administrative authority just to attack this one Applicant?

Applicant's fear is that these attacks may be attributable to competitors, like Dr. Park, who are coordinating an organized smear campaign to discredit BlackLight's technology. That fear is only heightened by the PTO's hiding behind strained theoretical arguments as an excuse for refusing to fairly evaluate Applicant's experimental evidence, while using its Secret Committee to issue anonymous rejections in this and other BlackLight applications. Dr. Brewer also brought these issues to Director Rogan's attention as an agenda item for a meeting that, unfortunately, has never taken place.

Applicant has a right to know the identity and qualifications of all persons providing input to, or otherwise participating in, the examination process. This information bears directly on the credibility of the rejections that have been entered in this and other BlackLight applications. For instance, if Dr. Park or any of his physicist cronies have been consulted in denying Applicant his patent rights, it would certainly explain the arbitrary and capricious handling of the experimental evidence of record in those cases.

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<sup>107</sup> The Examiners initially rejected all claims in these cases, but after conducting five lengthy personal interviews with Applicant and carefully considering Applicant's experimental evidence, they ultimately allowed those claims.

Particularly germane is the identity of all persons responsible for, or otherwise involved in, creating the Office Actions, Attachments, and Appendices that make up the record in this application and other BlackLight cases. To this day, the Committee has refused, without any adequate explanation, to provide this vital information to the detriment of Applicant.

Furthermore, Applicant is entitled to know which PTO officials are ultimately responsible for analyzing Applicant's scientific data evidencing the existence of lower-energy hydrogen, and which officials have the final authority to decide the fate of BlackLight's applications. The Committee's unfair refusal to divulge that information has also seriously handicapped Applicant's ability to effectively respond to and overcome the rejections of record.

For instance, Applicant has been stymied on numerous occasions in attempts to discover the basis for various positions articulated by the Committee, or the status of certain actions it has taken. Seldom are the Examiners of record, who are mere signatories to the Committee's handiwork, or their immediate supervisors, able to give any useful guidance on those subjects, either because they have no authority to do so and cannot divulge who does or, in some cases, they do not know who even has custody of the patent file so as to investigate the answer to a particular question.

Knowing who is responsible for analyzing the record evidence would also allow Applicant to assess that person's qualifications, as compared to those Ph.D. scientists who have peer reviewed the published experimental evidence confirming lower energy states of hydrogen. Equally important, by knowing who has authority to issue BlackLight's applications, Applicant can more easily ascertain and satisfy the patentability standards being applied in rejecting claims to his novel hydrogen technology.

Illustrating this last point, Applicant attempted to force the Secret Committee to set reasonable standards by which his data could be accepted as reliable proof by requesting the personal Interview that was held on February 21, 2001. Of course, to effectively determine the standards being applied against Applicant, he first had to identify the person(s) responsible for setting those standards.

Applicant, however, was only partially successful in that effort. Prior to the February 21 Interview, Applicant's counsel uncovered the identity of only one Committee member, Examiner Vasu Jagannathan, who played a role in rejecting BlackLight's applications. Incredibly, Examiner Jagannathan initially denied any such involvement, accurately noting that his name did not appear anywhere in the record. He therefore refused counsel's explicit request that he attend the upcoming Interview. Only after counsel wrote to a high-level supervisor demanding that Examiner Jagannathan attend did counsel receive confirmation that the Examiner was "directly involved in the creation of the Office Action" to be discussed at the Interview and that he would indeed attend. [See January 19, 2001 letter to Director Esther Kepplinger (Attachment K) and February 12, 2001 Letter from Director Jacqueline M. Stone (Attachment N)]

Examiner Jagannathan confirmed his direct involvement by leading the Interview discussions. The Examiner's participation afforded Applicant an opportunity to assess his qualifications to examine and evaluate the experimental evidence of record. Applicant was astonished to hear Examiner Jagannathan basically admit he was unqualified to do so based on several of his comments. One of those comments, as discussed previously, included his characterization of Applicant's highly reliable spectroscopic data confirming lower energy states of hydrogen as a "bunch of squiggly lines."

When pressed for guidance on what standards he used to evaluate Applicant's scientific data and to decide whether to issue his patents, Examiner Jagannathan would not elaborate. Rather, he proposed a new standard requiring Applicant to submit and publish his data in peer-reviewed journal articles before he would give it serious consideration. Despite strenuous objections to this newly minted standard requiring public disclosure of confidential information, Applicant has nonetheless worked diligently to comply with it.

Over the subsequent years, Applicant has used vast resources to present experimental evidence of lower energy states of hydrogen—much of it generated by independent third parties—in over 60 peer-reviewed articles published in the prestigious scientific journals mentioned above. Despite this significant accomplishment, the Committee, true to form, has essentially ignored that published evidence.

Even more impressive, Applicant has successfully met the Committee's new "publication" standard despite attempts by another of Applicant's main detractors, Dr. Zimmerman, to undermine that effort. [See Attachment H] Applicant's discovery that Dr. Zimmerman has been contacting various journals to dissuade publication of Applicant's articles is especially alarming given that the Committee has relied on non-peer reviewed statements by him—statements that were posted to an internet bulletin board of all places and that he readily admits are biased—to reject claims in BlackLight applications.

If, as Applicant suspects, the Committee has cooperated with Dr. Zimmerman, or other such biased individuals, in denying Applicant his patent rights, while those same individuals have worked behind the scenes to undermine Applicant's compliance with the Committee's concocted publication requirement, then again, that information is highly relevant and should be disclosed without further delay. Such a scenario would be entirely consistent with the prior admission by Dr. Zimmerman that while he served as Chief Scientist for the State Department, his Department and the PTO "fought back with success" against BlackLight. [See Attachment K, Tab C.]

Applicant is hardly surprised by his inability to break the PTO's code of silence on the suspicious handling of BlackLight's applications given that the PTO is stonewalling similar inquiries from five U.S. Senators—four of whom requested that Senator Patrick Leahy, Chairman of the Judiciary Committee overseeing the PTO, and/or Commerce Secretary Donald Evans, look into this matter. [See letters to and from Senators Max Cleland, Robert Torricelli, Jon Corzine, Ron Wyden, and Gordon Smith (Attachment O)] The PTO's continued refusal to cooperate in response to Senate inquiries suggests that, perhaps, it has something to hide.<sup>108</sup>

If the PTO looks to the Federal Circuit's June 28, 2002 Decision for license to continue its unfair and dilatory prosecution through secret examination, it will not find it.

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<sup>108</sup> In the PTO's reply to the Senators' inquiry letters, Robert L. Stoll, Administrator for External Affairs, contended that any comments in response to those inquiries would be "inappropriate" because of the then-pending appeal to the Federal Circuit in *BlackLight Power Inc. v. Dickinson*, Civ. No. 00-0422 (D.D.C.). [See Attachment O] Putting aside the fact that the issues then on appeal had absolutely nothing to do with the points of inquiry, this contrived excuse has gone stale as the Federal Circuit decided that case many years ago in June 2002. [See Attachment B] By its own statements, nothing now prevents the PTO from cooperating with the U.S. Senate regarding the administrative irregularities brought to its attention.

Indeed, Judge Newman, in rationalizing her ruling, incorrectly assumed that the PTO would fairly and expeditiously prosecute BlackLight's applications:

Such action must of course be reasonable under the circumstances and rare in occurrence, lest the emergency become the rule. But when necessary in order to fulfill the PTO's mission, with safeguards to the interests of the applicant including fair and expeditious further examination, we agree with the district court that the action taken is a permissible implementation of the statute and regulation. [See *BlackLight Power* at pages 1537 (Attachment B) (emphasis added).]

Nothing could be further from the truth. As documented by Applicant, the PTO's prosecution of BlackLight's applications has been nothing short of hostile and its attempt to hide the mistreatment of Applicant behind the authority of a Secret Committee only exacerbates the unfairness of those actions. Because this untenable situation has failed to provide the safeguards to the interests of Applicant, including a fair and expeditious further examination, as contemplated by the Federal Circuit in its Decision, Applicant has herein requested an equitable remedy that the PTO immediately issue all five of the withdrawn BlackLight applications that gave rise to that Decision. [See Demand for Information and Redress, *infra*.]

Applicant strongly urges the PTO to break its silence and to engage in an open and honest discussion of these issues that continue to plague the examination of BlackLight's pending applications. To this end, Applicant renews his earlier commitment, as expressed in Dr. Brewer's December 21, 2001 letter, to meet with the PTO Director and/or any other government officials, anywhere, anytime, to resolve these outstanding issues. Applicant sincerely hopes that the Director will likewise commit himself to achieving the same objective so that a fair and expeditious prosecution of all of BlackLight's applications that safeguards Applicant's interests, as envisioned by the Federal Circuit, can be achieved with mutually beneficial results.

Part of that forward movement should include a complete and proper consideration of Applicant's overwhelming experimental evidence confirming the utility and enablement of Applicant's novel hydrogen technology. In view of that evidence, Applicant submits that the rejections under 35 U.S.C. §§ 101 and 112 are misplaced and should be withdrawn, and that the present application is in condition for allowance.

**Discussions Held And Agreements Reached  
During The February 11, 2003 Interview**

The above-mentioned problems associated with the Secret Committee's examination of this and other BlackLight applications can be summarized as follows based on its failure to:

- (1) identify all persons from within and outside the Patent Office who contributed to, or were otherwise involved in, withdrawing or rejecting BlackLight's applications;
- (2) identify those persons having ultimate authority to analyze the vast body of experimental evidence demonstrating the existence of lower energy states of hydrogen and, based on that analysis, for deciding whether to issue patents on Applicant's novel hydrogen technology;
- (3) establish and apply consistent patentability standards and guidelines by which that patentability decision is to be made; and
- (4) properly analyze the evidence of record—now published, or to be published, in over 60 peer-reviewed journal articles—that the Committee required Applicant to submit.

The Committee merely perpetuated those failures in its previous Office Actions by dismissing, without serious analysis, Applicant's submitted data evidencing lower energy states of hydrogen. Frustrated by the Committee's inaction, but still determined to get a fair and expeditious hearing, Applicant requested and received the courtesy of another personal Interview, held February 11, 2003, to present his evidence and to discern the standards by which the ultimate decision-maker would be evaluating it.<sup>109</sup>

To that end, Applicant repeatedly requested that Examiner Jagannathan attend the Interview, since he had led the prior Interview held February 21, 2001, and, despite attempts to keep his identity secret, he was the only person known at the time to have been directly involved in creating the substantive Office Actions of record. Specifically,

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<sup>109</sup> Although the Interview Summary does not specifically list the serial number of all BlackLight applications as being the subject of the February 11, 2003 Interview, Examiners Langel and Kalafut agreed beforehand that the Interview would be held to address the similar rejection of claims in all assigned BlackLight cases based on an alleged lack of utility and inoperability.

Applicant sought to question Examiner Jagannathan on why he still refused to accept Applicant's scientific data evidencing lower-energy hydrogen after it had been published, or was soon to be published, in what was then over 40 (now over 50) peer-reviewed journal articles, which he himself had required. Applicant, however, never got the chance to pose that question. Without explanation, Examiner Jagannathan refused to attend the Interview, just as he had refused to attend the Interview held two years earlier—only this time, he did not show up.

Applicant also requested that Examiners Wayne Langel and Stephen Kalafut attend the Interview, since they had previously allowed the five BlackLight applications that were mysteriously withdrawn from issue and their names were the only ones appearing in the record as signers of the substantive Office Actions under consideration. Examiners Langel and Kalafut did appear for the Interview, together with their immediate supervisors, SPE's Patrick Ryan and Stanley Silverman. Examiner William Wayner, who was assigned to one BlackLight application prior to his retirement from the PTO and who expressed an interest in attending the Interview, also appeared.

Also attending the Interview and leading the discussions on the PTO's behalf was Quality Assurance Specialist Douglas McGinty, who until that time had never been identified to Applicant as having played any role in the examination of his applications.

Attending the Interview on behalf of BlackLight Power were the inventor, Dr. Randell L. Mills, his counsel, Jeffrey S. Melcher and Jeffrey A. Simenauer, and company Director Dr. Shelby Brewer.

Also attending the Interview as an observer at Applicant's request was Ted C. Liu, Senior Legislative Assistant for Congressman David Wu, who represents the 1<sup>st</sup> District of Oregon.

During the Interview, Applicant made a sincere effort to advance the prosecution of his applications and to find common ground upon which all of these cases, once again, would be allowed to issue as patents. Applicant believed it was a worthwhile effort in light of Examiner Langel's statements on the record reaffirming his consistent view that Applicant's novel hydrogen technology is fully operable and, therefore, entitled to patent protection. The Interview was also significant in view of the following



representations and agreements that resulted from the discussions between Applicant and lead-Specialist McGinty:

- (1) Applicant will identify the scientific data supporting lower energy states of hydrogen generated and furnished by independent third parties;
- (2) the Examiners whose signatures appear on the rejections of record, *i.e.*, Examiners Langel, Kalafut, and Wayner, have full authority to review that data and, based on their review, to issue patents as deemed appropriate; and
- (3) Applicant will confer with the signatory Examiners, either by telephone or in person, to review each assigned application on a claim-by-claim basis to ensure that the scientific data presented adequately supports the scope of the claims. For those claims determined to be adequately supported by the data, a patent will issue. For any claims deemed to be inadequately supported, Applicant reserves the right to continue seeking that broader claim coverage in subsequent proceedings.

Applicant appreciated the guidance Specialist McGinty provided during the Interview for securing BlackLight's patents. Based on that guidance, Applicant presented comments in two pending applications for which Responses were due detailing the substance of discussions held at the Patent Office on February 11<sup>th</sup> and identifying the independent, third-party data per agreement (1) above, which information is reproduced below. [U.S. Serial Nos. 09/110,678 and 09/362,693]

Applicant's comments confirmed Examiner Langel's long-held view that the claims in those cases were in condition for allowance. Applicant therefore requested that Examiner Langel exercise his authority to issue a Notice to that effect per agreement (2) above so that patents could then be issued.

Following up on the Responses filed in those pending applications per agreement (3) above, Applicant arranged for an Interview with Examiner Langel to review the cases on a claim-by-claim basis to ensure that the scientific data presented adequately supported the scope of the claims in those cases. In fact, Applicant and Examiner Langel reached a tentative understanding that certain claims were adequately supported by the data and that Applicant was therefore entitled to his patents.

Unfortunately for Applicant, that understanding was short lived after Examiner Langel, "for moral and ethical reasons," agreed under the most grievous of circumstances to his removal from examining all BlackLight applications to which he was assigned. Before discussing the prejudicial ramifications of that unfortunate incident, however, Applicant presents the following recap of the discussions held during the February 11, 2003 Interview that lead to the above agreements.<sup>110</sup>

Just prior to the Interview, Specialist McGinty asked that Mr. Liu speak by telephone with Talis Dzenitis, a Congressional Affairs Specialist in the PTO's Legislative and International Affairs Office, to discuss his reasons for attending. Mr. Liu explained to Specialist Dzenitis that a constituent associated with BlackLight had contacted Congressman David Wu complaining of the irregular procedures the PTO has used in examining the company's pending patent applications. The procedures complained of included the PTO's withdrawal of the five applications approved by Examiners Langel and Kalafut for issuance as patents and the subsequent rejection of those and other BlackLight applications by an unknown group of PTO officials referred to by Applicant as a "Secret Committee."

Specialist Dzenitis represented to Mr. Liu that no such secret committee existed at the Patent Office. Applicant was surprised by that representation considering that a group of anonymous PTO officials were known to be handling BlackLight's applications and drafting the substantive Office Actions that the Examiners of record were instructed to sign.

Examiner Langel confirmed as much in an extended discussion he had with Mr. Liu and Applicant's counsel following the formal phase of the Interview. During that discussion, Examiner Langel repeated his prior denials of having authored the substantive Office Actions of record in the BlackLight applications to which he was assigned, even though those Actions bear his signature. Examiner Langel also repeated his previously expressed view that Applicant is entitled to patents on his novel hydrogen technology and that he wanted to issue those patents. Examiner Langel explained, however, that other PTO officials unknown to him having higher authority

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<sup>110</sup> Much of the substance of these discussions was confirmed in e-mail correspondence between Mr. Liu and Applicant's Counsel. [See Attachment P]

were responsible for drafting the substantive Office Actions he signed and for deciding whether to issue Applicant his patents.

The only person Examiner Langel could identify for Mr. Liu as "having something to do with the Office Actions" was Examiner Jagannathan, whose name does not appear on any Office Action. As noted above, Examiner Jagannathan kept his identity a secret from Applicant until counsel exposed his direct involvement in creating the Office Actions of record and forced him to attend the prior Interview that he led on February 21, 2001. [See January 19, 2001 letter to Director Esther Kepplinger (Attachment K) and February 12, 2001 Letter from Director Jacqueline M. Stone (Attachment N)] When the recent February 11, 2003 Interview started, it was Specialist McGinty, another previously unidentified PTO official, who led the discussion.

Following the telephone conversation with Specialist Dzenitis, in which he denied the existence of a secret committee, Mr. Liu joined the Interview already in progress. Applicant began the Interview with a general discussion of his novel hydrogen technology and a presentation of the experimental evidence confirming its operation and utility. Specifically, Applicant explained to the PTO officials in attendance how independent laboratory studies, including those conducted by a leading Los Alamos researcher and by a NASA funded group, as well as other highly reliable scientific data, demonstrate the existence of lower energy states of hydrogen underlying his technology.

At no time during Applicant's presentation did the PTO officials analyze or otherwise address to any significant degree the merits of that data proving the existence of lower-energy hydrogen. Rather, these officials—with the exception of Examiner Langel—raised non-technical arguments, similar to those raised in the pending Office Actions, why lower-energy hydrogen could not exist and, thus, why they were justified in according the real-world data little or no weight.

The first such argument, raised by Examiner Wayner, was based on unrelated technologies that have been subjected to ridicule in the scientific community, such as perpetual motion, cold fusion, and 100-miles-per-gallon carburetors. Examiner Wayner compared those controversial technologies to BlackLight's novel hydrogen chemistry and then asked Applicant: "How is your invention any different?"

Applicant pointed out significant differences. Unlike the far-fetched inventions mentioned by Examiner Wayner, Applicant explained that his inventions have been actually reduced to practice, as demonstrated by the many working prototype energy cells developed over the past ten years and the novel chemical compounds produced by the process, which were made available to the PTO in the past and again during the Interview. In fact, Applicant invited the PTO officials to visit his laboratory in Cranbury, New Jersey and witness the operation of his energy cells for themselves, but like prior invitations, this one too was ignored.

Applicant further distinguished his claimed inventions based on the substantial body of experimental evidence that corroborates the existence of lower energy states of hydrogen. Again, none of the PTO officials who raised non-technical arguments questioning the operability of Applicant's novel hydrogen technology made any real attempt to analyze that corroborating evidence. Indeed, Examiner Wayner frankly admitted that his background was in mechanical engineering and, therefore, he was not qualified to conduct such an analysis.

Examiner Wayner also questioned why, if BlackLight's technology was such an important discovery, the company had not yet developed a commercial device for producing energy. Applicant explained that the high cost of developing commercial products was an impediment and that, because BlackLight was not positioned to handle commercial development, it was looking to license patents on its technology to other companies for commercialization purposes.

Concerned that Examiner Wayner might be introducing yet another new patentability standard, requiring the sale of a commercial product, counsel pressed the Examiner on whether that was his intention. Examiner Wayner plainly stated it was not and, in response to a specific question from Mr. Liu, affirmed that Applicant need not prove commercial applicability to secure a patent for his invention.<sup>111</sup>

Applicant also became alarmed when Examiner Wayner, in referring generally to BlackLight's "detractors," invoked only the name of APS lobbyist and spokesman Dr.

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<sup>111</sup> Despite these assurances, Applicant is proceeding under the assumption that the PTO is requiring proof of commercial applicability, especially in light of his discovery that the Committee now takes the position that "allowance is not an option" in BlackLight's cases. [See *infra*.]

Robert Park as someone who disputes the existence of lower energy states of hydrogen.<sup>112</sup> Applicant's counsel wanted to raise issues relating to Dr. Park's "Deep Throat" contact in the Patent Office and his reputation for conducting "hatchet jobs" on new technologies that threaten his lobbying of hundreds of millions of dollars on behalf of the APS to federally fund its pet projects. [See *supra*.] Specialist McGinty, however, cut counsel off, refusing to discuss the matter. When Specialist McGinty suggested that BlackLight has a "similar agenda," noting its recent NASA contract, Applicant corrected him, explaining that BlackLight does not receive any government funding for its research. Specialist McGinty had no response and the discussion moved onto other, less controversial subjects.

Examiner Wayner raised other issues regarding the reliability of the scientific evidence presented by Applicant. That evidence included spectroscopic data, which counsel described as being equivalent to a "chemical fingerprint." Counsel further noted that Dr. Park himself, whom Examiner Wayner identified as BlackLight's chief antagonist, has proclaimed the extraordinary reliability of spectroscopic data. [See *supra*.]

Yet when Applicant tried to present this highly reliable spectroscopic data at the Interview showing the spectral lines corresponding to lower-energy hydrogen, *i.e.*, a "hydrino" state, Examiner Wayner interrupted, commenting that "spectroscopic lines are meaningless" and "don't mean a hill of beans" to him. That comment was reminiscent of a previous one by Examiner Jagannathan characterizing Applicant's spectroscopic data as "a bunch of squiggly lines." [See *supra*.]

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<sup>112</sup> To Applicant's astonishment, in the Office Actions issued in Examiner Wayner's one assigned case, the Committee has continued to cite Dr. Park's biased statements against Applicant as a basis for rejecting claims in this case:

The opinion of Robert Park set forth in the Examiner's action of 4/14/00, paper #16. *i.e.* "But according to the country's leading organization of academic physicists, Mills' hydrino theory has no credibility. "There is virtually nothing that science does not know about the hydrogen atom," said Robert Park, director of the Washington [sic] office of the American Physical Society. "The ground state is defined as the (energy) state below which you cannot go ... the thought there is some state below the ground state is kind of humorous [sic]." [See 4/26/04 Office Action at p. 4 in U.S. App'n Ser. No. 09/181,180.]

Counsel again became concerned that BlackLight's applications were being evaluated using rather loose patentability standards. Counsel therefore requested that the PTO officials provide some guidance regarding the evidentiary requirements they were imposing on Applicant. Specialist McGinty and Examiner Wayner at first did not respond directly to Counsel's request for guidance, but rather began questioning the accuracy of the test data Applicant submitted to confirm the existence of lower energy hydrogen.

Applicant explained that the submitted test data was generated by highly qualified Ph.D. scientists, many of whom represent independent laboratories. Applicant further noted how this data had been extensively peer-reviewed in the 40-plus (now over 50) articles published, or soon to be published, in prestigious scientific journals, including the *Journal of Applied Physics*. Applicant also provided Specialist McGinty—much to his surprise—with specific data showing the lower-energy state spectral lines that were published in the prestigious spectroscopic publication, *Journal of Molecular Structure*.

Applicant was astounded by the refusal of Specialist McGinty and Examiner Wayner to accept the reliability of the scientific data appearing in these published journal articles, especially considering the PTO's routine acceptance of evidence submitted in printed publications to overcome utility rejections. See, e.g., MPEP § 2107.01 (VI) pp. 2100-33 ("An applicant can [submit evidence in response to a utility rejection] using any combination of the following: amendments to the claims, arguments or reasoning, or new evidence submitted in an affidavit or declaration under 37 CFR 1.132, or in **a printed publication**." (emphasis added)).

Counsel also reminded the PTO officials of the standard imposed by lead-Examiner Jagannathan during the previous Interview held February 21, 2001 that conditioned his consideration of evidence of lower-energy hydrogen on its publication in peer-reviewed journal articles based on the reliability of the peer-review process. Counsel then noted once again that, despite Examiner Jagannathan's failure to provide legal authority for imposing this unreasonable standard, Applicant had not only met it, but had exceeded it with over 40 (now over 50) journal articles. Having done so, counsel expressed extreme frustration with the PTO's continued refusal to seriously

analyze the published scientific data based on manufactured excuses, such as this newly concocted one concerning the accuracy of Applicant's data.

Specialist McGinty raised yet another weak excuse for ignoring the published data by asking what assurances Applicant could provide that the journal articles had been actually peer reviewed! Mystified by that question, Applicant could only state what is a simple known fact: to get scientific data published in a journal article, it must first go through a rigorous peer-review process. Indeed, many of Applicant's articles went through numerous drafts and required further experimentation as directed by the Ph.D. scientists who peer reviewed those articles.

At that point in the Interview, Specialist McGinty admitted that, like Examiner Wayner, he was not qualified to analyze the published data. Applicant was surprised by that admission, since the Interview was being led by Specialist McGinty and had been arranged for the express purpose of presenting the experimental evidence of record.

Examiner McGinty's admission merely fueled Applicant's prior concerns that his published scientific data was not being properly considered, prompting counsel to ask who was responsible for analyzing that data. Specialist McGinty replied by stating that Examiners Langel and Kalafut, the Examiners of record, had that responsibility. That too came as a surprise since Examiners Langel and Kalafut were the ones who had originally reviewed Applicant's experimental evidence in allowing the five BlackLight applications that were subsequently withdrawn from issue. Applicant, however, was relieved to learn that these two Examiners, who had over 50 years of experience between them and who were obviously qualified to analyze the published data, were being reassigned that task.

Counsel then addressed the vexing problem of constantly changing patentability standards that had been plaguing the examination process. Counsel specifically mentioned, for example, the prior Office Actions that claimed Applicant's lower-energy hydrogen technology violated known laws of physics and chemistry without specifically identifying even one such law, and then required Applicant to prove otherwise.

Counsel also cited a recent Office Action dismissing Applicant's scientific data out of hand for failing to prove the invalidity of quantum theory:

The request for reconsideration has been entered and considered but does not overcome the rejection . . . because there is no evidence presented which would prove applicant's contention that the theory of quantum mechanics is invalid."  
[October 7, 2002 Advisory Action entered in U.S. Serial No. 09/110,717]

When Specialist McGinty accused Applicant of putting a "spin" on the Examiner's rejection, counsel noted that he had been reading the above quotation directly from the Office Action.

Counsel also mentioned other recent Office Actions filed in BlackLight cases that dismissed Applicant's recent submission of peer-reviewed journal articles, in accordance with the standards imposed by Examiner Jagannathan, as being merely "cumulative" when it clearly was not and even the originally submitted evidence had not been properly analyzed.

Expressing frustration over the PTO's failure to provide any consistent patentability standards to guide Applicant, counsel once again requested that Specialist McGinty provide such guidance. Specialist McGinty again raised concern over the integrity of the experimental evidence, but indicated that he would be more receptive to that evidence if it was validated by independent third parties.<sup>113</sup>

Applicant explained to Specialist McGinty that much of the evidence submitted over the previous four years was, in fact, generated by independent third parties. Applicant then began citing examples of the extensive independent third-party evidence disclosed in publications previously cited to the PTO, as well as more recently generated evidence that was subsequently submitted.<sup>114</sup> Specialist McGinty did not

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<sup>113</sup> Just as Specialist McGinty sought assurances at the February 11 Interview that persons involved in generating and furnishing the scientific data submitted by Applicant are independent and unbiased, Applicant deserves similar assurances that those involved in rejecting BlackLight's applications are also independent and unbiased. Despite Applicant's repeated requests for such assurances, none have been given. The genuine conflicts of interest uncovered by Applicant involving Examiner Souw and his clearly biased views against BlackLight adopted by the Committee merely underscore the importance of this highly relevant information.

<sup>114</sup> See R. L. Mills, B. Dhandapani, M. Nansteel, J. He, A. Voigt, "Identification of Compounds Containing Novel Hydride Ions by Nuclear Magnetic Resonance Spectroscopy", *Int. J. Hydrogen Energy*, Vol. 26, No. 9, (2001), pp. 965-979.

R. L. Mills, P. Ray, B. Dhandapani, M. Nansteel, X. Chen, J. He, "New Power Source from Fractional Quantum Energy Levels of Atomic Hydrogen that Surpasses Internal Combustion", *J. Mol. Struct.*, Vol. 643, No. 1-3, (2002), pp. 43-54.



respond, whereupon counsel noted that the PTO's unfounded concern that the record evidence lacked third-party validation merely demonstrated its failure to thoroughly analyze that evidence.

Further demonstrating a lack of familiarity with the record evidence, Specialist McGinty criticized Applicant's experimental evidence as a whole by referring numerous times to only high-power plasma data. Applicant repeatedly pointed out that the plasma data was but a small fraction of the submitted evidence and that it was presented primarily to provide additional support for his plasma-related applications.

Applicant noted that the vast body of other scientific data he submitted relates to a broad range of analytical studies demonstrating the existence of lower energy states of hydrogen. For example, regarding those applications relating to novel chemical compounds, Applicant pointed Specialist McGinty to the extensive spectroscopic data supporting the identification of those compounds. Specialist McGinty, however, apparently did not understand the significance of that data, stating that the NMR data confirming lower-energy hydrogen could have been due to nitrogen. Applicant had to explain that, as a matter of basic scientific knowledge, NMR data only shows protons and that no other element but hydrogen is in the data range. Applicant also explained that the NMR data confirms the presence of an internal energy source.

Knowing that highly qualified Examiners Langel and Kalafut were once again responsible for analyzing the published data was reassuring. There still remained, however, one nagging issue, namely, who had the ultimate authority to issue Applicant his patents. Counsel expressed concern that the pending applications were being examined in secret and that, without knowing who had that authority, Applicant was being unfairly denied an opportunity to present his case to the actual decision-maker.

Specialist McGinty then stated in no uncertain terms that Examiners Langel, Kalafut, and Wayner, the signers of the Office Actions under consideration, had "full authority" to examine the pending applications and to issue the patents.

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J. Phillips, R. L. Mills, X. Chen, "Water Bath Calorimetric Study of Excess Heat in 'Resonance Transfer' Plasmas", Journal of Applied Physics, submitted.

A. J. Marchese, P. M. Jansson, J. L. Schmalzel, "The BlackLight Rocket Engine", Phase I Final Report, NASA Institute for Advanced Concepts Phase I, May 1-November 30, 2002, [http://www.niac.usra.edu/files/studies/final\\_report/pdf/752Marchese.pdf](http://www.niac.usra.edu/files/studies/final_report/pdf/752Marchese.pdf).

Upon hearing that statement, counsel immediately turned to Examiner Langel and asked him point blank whether, after having studied the experimental evidence of record, he still believes that BlackLight's patent applications were allowable. The Examiner replied in no uncertain terms, "Yes, they're still allowable."

Counsel then asked Examiner Langel whether he was prepared to immediately allow the claims and issue Applicant his patents in those applications assigned to him, as is customary during an Interview, to which the Examiner replied, "Fine with me."

Specialist McGinty, however, expressed uneasiness over Examiner Langel's agreement to allow claims at the Interview. Specifically, he stated his concern that even if Applicant's claimed technology were found to be operable, there were still issues of novelty and nonobviousness to be addressed before a patent could be issued.

Counsel was surprised by that statement given the PTO's arguments over the prior three years that Applicant's inventions were inoperable based on an incorrect assumption that lower-energy hydrogen cannot possibly exist. Counsel pointed out the obvious contradiction in arguing that the Examiners may still need to conduct a prior art search for possible disclosure of Applicant's lower-energy hydrogen technology.

Counsel further noted the PTO's own examination guidelines requiring Examiners to evaluate the operability and utility of a claimed invention together with its novelty and nonobviousness following a complete prior art search. See MPEP § 706.<sup>115</sup> Counsel again turned to Examiner Langel to confirm whether that was his understanding. The Examiner replied that it was and indicated that, in fact, the first thing he did was to conduct a thorough prior art search because he thought that might be the easiest way to dispose of the applications assigned to him. Examiner Langel

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<sup>115</sup> MPEP § 706 provides in pertinent part:

After the application has been read and the claimed invention understood, a prior art search for the claimed invention is made. With the results of the prior art search, including any references provided by the applicant, the patent application should be reviewed and analyzed in conjunction with the state of the prior art to determine whether the claims define a useful, novel, nonobvious, and enabled invention that has been clearly described in the specification. The goal of examination is to clearly articulate any rejection early in the prosecution process so that the applicant has the opportunity to provide evidence of patentability and otherwise reply completely at the earliest opportunity.

explained, however, that he was unable to reject the applications on prior art grounds, which was why he originally allowed them.

Counsel acknowledged Specialist McGinty's hesitation to issue Applicant patents covering his claims at the Interview and assured him that Applicant wanted to work with him to remove any lingering concerns. Counsel then specifically asked Specialist McGinty to articulate how they might proceed in trying to accomplish that mutually beneficial goal. In response, Specialist McGinty indicated that, in the next Response to any pending or subsequent Office Actions, Applicant should focus on identifying the scientific data generated by independent third-party testing, as opposed to test data generated solely by Applicant. Counsel agreed to do that.

Specialist McGinty further expressed concern over whether that scientific data, even if assumed to be reliable, was commensurate with the scope of the claims of the various applications to adequately support patentability. Counsel stated that Applicant's data did adequately support the claimed subject matter. Counsel, however, recommended reviewing the claims of each application one by one with the assigned Examiners to see if at least some agreement could be reached as to those claims that are adequately supported and for which patents can be issued. As for any remaining claims that the Examiners believe are not adequately supported by the scientific data, Applicant would be free to seek such broader claim coverage through continued prosecution.

Specialist McGinty agreed that this was a reasonable way to proceed and granted a request by counsel, Mr. Simenauer, that this agreement be memorialized in writing in an attachment to the Interview Summary Form. Mr. Simenauer offered to draft this agreement, as is common practice, and Specialist McGinty enthusiastically accepted the offer. Mr. Simenauer then drafted the following Attachment as Specialist McGinty looked on:

**ATTACHMENT TO INTERVIEW SUMMARY FORM**

Applicant requested that the following points discussed at the Interview held on February 11, 2003 be included as an Attachment to the Interview Summary Form.

Applicant's counsel and the Examiners in attendance at the Interview agreed to meet again at a future date, either in person or by telephone, to continue discussions regarding the patentability of Applicant's pending patent applications. Specifically, the Examiners expressed concern that Applicant's experimental evidence be commensurate with the scope of the claims. To address that concern, Applicant's counsel agreed with the Examiners to go through the patent applications claim-by-claim with the Examiners and demonstrate how the scientific data supports those claims.

For those claims that are supported by the data, the PTO agrees to issue those claims. For those claims that the PTO determines are not supported by the data, Applicant will continue to seek that broader claim coverage in subsequent proceedings. [Attachment F]

After completing the two-page handwritten Attachment, Mr. Simenauer read it out loud in the presence of Specialist McGinty and Examiner Langel so that they could confirm its accuracy and make any necessary changes. When asked by counsel whether they were satisfied with the wording of the Attachment, Specialist McGinty stated that he was, as did Examiner Langel, who then signed each of the two pages. There was absolutely no confusion as to the agreement to issue patents for those claims found to be supported by the scientific data.

Incredibly, in a transparent attempt to rewrite history, some unknown PTO official apparently instructed Examiner Langel to sign a subsequent communication mailed over two weeks later, on February 26, 2003, that included an attached "Supplement to Interview Summary" (Attachment F), which provides in pertinent part:

The following is a supplement to the summary concerning the February 11, 2003 interview re 09/501,622, etc. . . . A two-page Interview Summary was provided by Examiner Langel. A two page "Attachment to Interview Summary Form" also was provided by Mr. Simenauer. While the Attachment may represent the applicant's understanding of the interview, two points must be clarified.

First the second page of the applicant's attachment states in part: "for those claims that are supported by the data, the PTO agrees to issue those claims." The PTO made no such agreement. Instead, the PTO representatives indicated that the rejections under both 35 USC 101 and 112, 1<sup>st</sup> para., are outstanding and that evidence as to verification by credible, established, independent third parties would carry more persuasive weight.

Second, QAS Douglas McGinty was not listed in the Examiner's Interview Summary. He was present during the interview with the aforementioned attendees.

[signed] Wayne Langel  
Primary Examiner  
Art unit 1754

If PTO officials wanted to retract one of the key agreements reached at the Interview, they should have expressly said so, identifying who made the decision and giving reasons for the retraction. Since this was not done, Applicant has no choice but to rely on the accuracy of the contemporaneous written record.

Moreover, in view of other agreements reached at the Interview, the suggestion that there was no agreement to issue patents under the stated conditions is absurd—though hardly surprising given the sordid prosecution history of BlackLight's patent applications. Specialist McGinty plainly stated on the record that the Examiners who signed the outstanding rejections have full authority to review the data and to issue Applicant his patents. Also of record is Examiner Langel's unequivocal statement that, based on his review, he was prepared to issue those patents. To then force this same Examiner to sign a statement two weeks after the fact denying that "for those claims that are supported by the data, the PTO agrees to issue those claims" is, frankly, embarrassing.

Other ineffective arguments, such as those made by Examiner Kalafut that "the present Examiner did not commit to any agreements during the interview," are also disappointing and, hopefully, will not be repeated. [See Advisory Action dated April 2, 2003 filed in U.S. App'n Ser. No. 08/467,911.] Applicant acknowledges that, to the best of his recollection, Examiner Kalafut, although present at the February 11 Interview, did not speak a word. As previously indicated, it was Specialist McGinty who led the Interview on behalf of the PTO and it was he who ultimately agreed to the terms under which examination of BlackLight's patent applications would proceed, which terms were expressly reduced to writing. For Examiner Kalafut, or any other Examiner assigned to one of BlackLight's applications, to now attempt to distance themselves from that agreement based on the weak assertion that they did not personally commit to it during

the Interview merely illustrates yet another example of the PTO's arbitrary and capricious approach to examining these applications.

**Applicant's Identification of Scientific Data Supporting Lower energy States of Hydrogen Generated and Furnished By Independent Third-Parties**

In light of the controversial prosecution history of this and other pending BlackLight cases, Applicant appreciated what seemed to be Specialist McGinty's willingness to set reasonable standards and guidelines by which Applicant's patents could finally be issued. Applicant acknowledged and documented Specialist McGinty's concern over the reliability of the record evidence, which led to his requirement that Applicant identify independent third-party verification of the scientific data as noted in the PTO's Supplement to Interview Summary. With those standards and guidelines in mind, Applicant presented in two pending applications a summary of the scientific data supporting lower energy states of hydrogen generated and furnished by independent third parties, which data is reproduced below along with additional, newly submitted data.<sup>116</sup>

**Experimental Evidence Generated by Independent Third Parties**

Applicant is unaware of any statutes, rules, or case law requiring that experimental evidence submitted by an Applicant in response to a rejection by the PTO be generated by independent third parties. Despite the higher standard imposed by Specialist McGinty requiring such third-party validation of the evidence, Applicant still has met and far exceeded this standard as shown below.

Applicant provides the following alphabetical list of independent third-party laboratories and universities that conducted the experiments and generated the scientific data relied upon and discussed in the analytical studies that follow this list:

Advanced Research - Pirelli Labs, Milan, Italy

Aero Propulsion and Power Directorate, Wright Laboratory, Air Force Material Command (ASC), Wright-Patterson Air Force Base

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<sup>116</sup> See U.S. App'n Ser. Nos. 09/110,678 and 09/362,693.

Atomic Energy Canada Limited, Chalk River Laboratories

Brookhaven National Laboratory

Charles Evans & Associates, Sunnyvale, CA

Charles Evans East, East Windsor, NJ

Environmental Catalysis and Materials Laboratory of Virginia Polytechnic Institute

Franklin and Marshall College

Galbraith Laboratories, Inc., Knoxville, TN

Grace Davison, Columbia, MD

IC Laboratories, Amawalk, NY

Idaho National Engineering Laboratory

Institut für Niedertemperatur-Plasmaphysik e.V. (INP Greifswald, Germany)

Jobin Yvon Inc., Edison, NJ

Laboratory for Electrochemistry of Renewed Electrode-Solution Interface  
(LEPGER)

Liebert Corporation, Division of Emerson Corporation

Los Alamos National Laboratory

Material Testing Laboratory, Pennington, NJ

MIT Lincoln Laboratories

Moscow Power Engineering Institute

NASA Lewis

National Research Council of Canada

PacifiCorp

Pennsylvania State University Chemical Engineering Department

Perkin-Elmer Biosystems, Framingham, MA

Pirelli Labs, Milan, Italy

Ricerca, Inc., Painesville, Ohio

Rider University, Lawrenceville NJ

Rowan University Professors A. J. Marchese, P. M. Jansson, J. L. Schmalzel

Ruhr University, Bochum, Germany

Shrader Analytical & Consulting Laboratories

Spectral Data Services, Inc., Champaign, IL

S. S. W., University of Western Ontario, Canada

Surface Science Laboratories, Mountain View, CA

Thermacore, Inc., Lancaster, PA

University of Delaware, Wilmington, DE

University of Massachusetts Amherst, Amherst, MA

University of New Mexico

Westinghouse Electric Corporation

Zettlemoyer Center for Surface Studies, Sinclair Laboratory, Lehigh University,  
Bethlehem, PA

The following 47 abstracts briefly describe the analytical studies of the scientific data generated by these independent third parties (highlighted in underline).

## **Independent Test Results**

51. **J. Phillips, C-K Chen, R. Mills, "Evidence of catalytic Production of Hot Hydrogen in RF Generated Hydrogen/Argon Plasmas", IEEE Transactions on Plasma Science, submitted.**



J. Phillips, Distinguished National Laboratory Professor at Los Alamos National Laboratory and University of New Mexico, performed verification studies of line broadening in catalysis plasmas. This is the third in a series of papers by our team on apparently anomalous Balmer series line broadening in hydrogen containing RF generated, low pressure (< 600 mTorr) plasmas. In this paper the selective broadening of the atomic hydrogen lines in pure H<sub>2</sub> and Ar/H<sub>2</sub> mixtures in a large "GEC" cell (36 cm length X 14 cm ID) was mapped as a function of position, H<sub>2</sub>/Ar ratio, time, power, and pressure. Several observations regarding the selective line broadening were particularly notable as they are unanticipated on the basis of earlier models. First, the anomalous broadening of the Balmer lines was found to exist throughout the plasma, and not just in the region between the electrodes. Second, the broadening was consistently a complex function of the operating parameters particularly gas composition (highest in pure H<sub>2</sub>) position, power and pressure. Clearly not anticipated by earlier models were the findings that under some conditions the highest concentration of "hot" (>10 eV) hydrogen was found at the entry end, and not in the high field region between the electrodes and that in other conditions, the hottest H was at the (exit) pump (also grounded electrode) end. Third, excitation and electron temperatures were less than one eV in all regions of the plasma not directly adjacent (>1mm) to the electrodes, providing additional evidence that the energy for broadening, contrary to standard models, is not obtained from the field. Fourth, in contrast to our earlier studies of hydrogen/helium and water plasmas, we found that in some conditions 98% of the atomic hydrogen was in the "hot" state throughout the GEC cell. Virtually every operating parameter studied impacted the character of the hot H atom population, and clearly second and third order effects exist, indicating a need for experimental design. Some non-field mechanisms for generating hot hydrogen atoms, specifically those suggested by Mills' CQM model, are outlined.

50. **J. Phillips, C. K. Chen, R. Mills, "Evidence of the Production of Hot Hydrogen Atoms in RF Plasmas by Catalytic Reactions Between Hydrogen and Oxygen Species", Spectrochimica Acta Part B: Atomic Spectroscopy, submitted.**

J. Phillips, Distinguished National Laboratory Professor at Los Alamos National Laboratory and University of New Mexico, performed verification studies of line broadening in catalysis plasmas. Selective H-atom line broadening was found to be present throughout the volume (13.5 cm ID x 38 cm length) of RF generated  $H_2O$  plasmas in a GEC cell. Notably, at low pressures (ca. <0.08 Torr), a significant fraction (ca. 20%) of the atomic hydrogen was 'hot' with energies greater than 40 eV with a pressure dependence, but only a weak power dependence. The degree of broadening was virtually independent of the position studied within the GEC cell, similar to the recent finding for  $He/H_2$  plasmas in the same GEC cell. In contrast to the atomic hydrogen lines, no broadening was observed in oxygen species lines at low pressures. Also, in 'control'  $Xe/H_2$  plasmas run in the same cell at similar pressures and adsorbed power, no significant broadening of atomic hydrogen,  $Xe$ , or any other lines was observed. Stark broadening or acceleration of charged species due to high electric fields can not explain the results since i) the electron density was insufficient by orders of magnitude, ii) the RF field was essentially confined to the cathode fall region in contrast to the broadening that was independent of position, and iii) only the atomic hydrogen lines were broadened. Rather, all of the data is consistent with a model that claims specific, predicted, species can act catalytically through a resonant energy transfer mechanism to create 'hot' hydrogen atoms in plasmas.

**49. R. L. Mills, Y. Lu, B. Dhandapani, "Spectral Identification of  $H_2(1/2)$ ", submitted.**

Lower-energy molecular hydrogen lines were independently recorded and interpreted by Stephan Fuelling of the University of Nevada, Reno and the Nevada Terawatt Facility and provided to BlackLight. Novel emission lines with energies of  $q \cdot 13.6 \text{ eV}$  where  $q = 1, 2, 3, 4, 6, 7, 8, 9, \text{ or } 11$  were previously observed by extreme ultraviolet (EUV) spectroscopy recorded on microwave discharges of helium with 2% hydrogen [R. L. Mills, P. Ray, J. Phys. D, Applied Physics, Vol. 36, (2003), pp. 1535-1542]. These lines matched  $H(1/p)$ , fractional Rydberg states of atomic hydrogen

wherein  $n = \frac{1}{2}, \frac{1}{3}, \frac{1}{4}, \dots, \frac{1}{p}$ ; ( $p \leq 137$  is an integer) replaces the well known parameter

$n$  = integer in the Rydberg equation for hydrogen excited states. Evidence supports that these states are formed by a resonant nonradiative energy transfer to  $He^+$  acting as a catalyst; whereas, krypton, xenon, and their ions serve as controls. Two  $H(1/2)$  may react to form  $H_2(1/2)$  with emission of the bond energy from a resonant state within its transition state with vibration-rotational energies that are the same as those of  $H_2$ . A series of vibration-rotational bands in the 60-67 nm region, a high-energy region for which vibration-rotational spectra are ordinarily unknown, was observed from low-pressure helium-hydrogen (99/1%) microwave plasmas that matched the predicted energy spacing of the vibrational energy of  $H_2$  about the bond energy of  $H_2(1/2)$  corresponding to the reaction  $2H(1/2) \rightarrow H_2(1/2)$ .

**48. J. Phillips, C. K. Chen, "Evidence of Energetic Reaction Between Helium and Hydrogen Species in RF Generated Plasmas", Philosophy Magazine, submitted.**

A study of the line shapes of hydrogen Balmer series lines in RF generated low pressure  $H_2/He$  plasmas performed at the University of New Mexico, Department of Chemical and Nuclear Engineering produced results suggesting a catalytic process between helium and hydrogen species results in the generation of 'hot' (ca. 28 eV) atomic hydrogen. Even far from the electrodes (ca. 15 cm) both 'cold' (<2.5 eV) and 'hot' atomic hydrogen were found in  $H_2/He$  plasmas. Line shapes, relative line areas of cold and hot atomic hydrogen (hot/cold>2.5), were very similar for areas between the electrodes and far from the electrodes for these plasmas. In contrast, in  $H_2/Xe$  only 'warm' (<5 eV) hydrogen (warm/cold<1.0) was found between the electrodes, and only cold hydrogen away from the electrodes. Earlier postulates that preferential hydrogen line broadening in plasmas results from the acceleration of ionic hydrogen in the vicinity of electrodes, and the special charge exchange characteristics of  $Ar/H_2^+$  are clearly belied by the present results that show atomic hydrogen line shape are similar for  $H_2/He$  plasmas throughout the relatively large cylindrical (14 cm ID x 36 cm length) cavity.

**47. R. L. Mills, P. Ray, M. Nansteel, J. He, X. Chen, A. Voigt, B. Dhandapani, Luca Gamberale, "Energetic Catalyst-Hydrogen Plasma Reaction as a Potential New Energy Source", J. Phys. B: At. Mol. Opt. Phys., submitted.**

Luca Gamberale of the Advanced Research - Pirelli Labs, Milan, Italy performed verification studies as a visiting researcher at BlackLight Power, Cranbury, NJ. The prior reported results of BlackLight Power, Inc. of a chemically generated hydrogen plasma, extraordinarily broadened atomic hydrogen lines, lower-energy hydrogen molecular-ion lines, the isolation and characterization of lower-energy molecular hydrogen gas, and excess power measured by water bath calorimetry were replicated. Specifically, plasmas of certain catalysts such as  $Sr^+$ ,  $Ar^+$ , and  $He^+$  mixed with hydrogen were studied for evidence of a novel energetic reaction. A hydrogen plasma was observed to form at low temperatures (e.g.  $\approx 10^3$  K) and an extraordinary low field strength of about 1-2 V/cm when argon and strontium were present with atomic hydrogen. RF and microwave plasmas were used to generate  $He^+$  and  $Ar^+$  catalysts. Extraordinarily fast H (40-50 eV) was observed by Balmer  $\alpha$  line broadening only from plasmas having a catalyst with H. Novel emission lines with energies of  $q \cdot 13.6$  eV where  $q = 1, 2, 3, 4, 6, 7, 8, 9$ , or 11 were previously observed by extreme ultraviolet (EUV) spectroscopy recorded on microwave discharges of helium with 2% hydrogen [R. L. Mills, P. Ray, J. Phys. D, Applied Physics, Vol. 36, (2003), pp. 1535-1542]. These lines matched  $H(1/p)$ , fractional Rydberg states of atomic hydrogen wherein

$$n = \frac{1}{2}, \frac{1}{3}, \frac{1}{4}, \dots, \frac{1}{p}; (p \leq 137 \text{ is an integer}) \text{ replaces the well known parameter } n = \text{integer in}$$

the Rydberg equation for hydrogen excited states.  $H(1/p)$  may react with a proton and two  $H(1/p)$  may react to form  $H_2(1/p)^+$  and  $H_2(1/p)$ , respectively, that have vibrational and rotational energies that are  $p^2$  times those of the species comprising uncatalyzed atomic hydrogen. A series of over twenty peaks in the 10-65 nm region emitted from low-pressure helium-hydrogen (90/10%) and argon-hydrogen (90/10%) microwave plasmas matched the energy spacing of  $2^2$  times the transition-state vibrational energy of  $H_2^+$  with the series ending on the bond energy of  $H_2(1/4)^+$ .  $H_2(1/p)$  gas was isolated

by liquefaction using an high-vacuum ( $10^{-6}$  Torr) capable, liquid nitrogen cryotrap and was characterized by gas chromatography (GC), mass spectroscopy (MS), visible and EUV optical emission spectroscopy (OES), and  $^1\text{H}$  NMR of the condensable gas dissolved in  $\text{CDCl}_3$ . Novel peaks were observed by cryogenic gas chromatography performed on the condensable gas which was highly pure hydrogen by MS and had a higher ionization energy than  $\text{H}_2$ . The observation that the EUV emission spectrum changed with deuterium substitution in a region where no hydrogen emission has ever been observed further supported the existence of lower-energy molecular hydrogen. Contaminants and exotic helium-hydrogen species were eliminated as the source of the reaction and condensed gas plasma emission spectra. Upfield shifted NMR peaks were observed at 3.47 ppm and 2.18 ppm compared to that of  $\text{H}_2$  at 4.63 ppm that matched  $\text{H}_2(1/2)$  and  $\text{H}_2(1/4)$ , respectively. Excess power was absolutely measured from the helium-hydrogen plasma. For an input of 44.3 W, the total plasma power of the helium-hydrogen plasma measured by water bath calorimetry was 62.9 W corresponding to 18.6 W of excess power in  $3 \text{ cm}^3$ . The excess power density and energy balance were high,  $6.2 \text{ W/cm}^3$  and  $-5 \times 10^4 \text{ kJ/mole H}_2$  ( $240 \text{ eV/H atom}$ ), respectively.

**46. R. L. Mills, Y. Lu, J. He, M. Nansteel, P. Ray, X. Chen, A. Voigt, B. Dhandapani, "Spectral Identification of New States of Hydrogen", J. Mol. Struct., submitted.**

Novel emission lines with energies of  $q \cdot 13.6 \text{ eV}$  where  $q = 1, 2, 3, 4, 6, 7, 8, 9, 11$  were previously observed by extreme ultraviolet (EUV) spectroscopy recorded on microwave discharges of helium with 2% hydrogen [R. L. Mills, P. Ray, J. Phys. D, Applied Physics, Vol. 36, (2003), pp. 1535-1542]. These lines matched  $\text{H}(1/p)$ , fractional Rydberg states of atomic hydrogen wherein  $n = \frac{1}{2}, \frac{1}{3}, \frac{1}{4}, \dots, \frac{1}{p}$ ; ( $p \leq 137$  is an integer) replaces the well known parameter  $n = \text{integer}$  in the Rydberg equation for hydrogen excited states. Evidence supports that these states are formed by a resonant nonradiative energy transfer to  $\text{He}^+$  acting as a catalyst.  $\text{Ar}^+$  also serves as a catalyst to form  $\text{H}(1/p)$ ; whereas, krypton, xenon, and their ions serve as controls.  $\text{H}(1/p)$  may react with a proton and two  $\text{H}(1/p)$  may react to form  $\text{H}_2(1/p)^+$  and  $\text{H}_2(1/p)$ , respectively, that have

vibrational and rotational energies that are  $p^2$  times those of the species comprising uncatalyzed atomic hydrogen. A series of over twenty peaks in the 10-65 nm region emitted from low-pressure helium-hydrogen (90/10%) and argon-hydrogen (90/10%) microwave plasmas matched the energy spacing of  $2^2$  times the transition-state vibrational energy of  $H_2^+$  with the series ending on the bond energy of  $H_2(1/4)^+$ . Rotational lines were observed in the 145-300 nm region from atmospheric pressure electron-beam excited argon-hydrogen plasmas. The unprecedented energy spacing of  $4^2$  times that of hydrogen established the internuclear distance as 1/4 that of  $H_2$  and identified  $H_2(1/4)$ . The results were independently recorded at Rutgers University.  $H_2(1/p)$  gas was isolated by liquefaction at liquid nitrogen temperature and by decomposition of compounds found to contain the corresponding hydride ions  $H^-(1/p)$ . The  $H_2(1/p)$  gas was dissolved in  $CDCl_3$  and characterized by  $^1H$  NMR at Rider University, Lawrenceville NJ. Considering solvent effects, singlet peaks upfield of  $H_2$  were observed with a predicted integer spacing of 0.64 ppm at 3.47, 3.02, 2.18, 1.25, 0.85, and 0.22 ppm which matched the consecutive series  $H_2(1/2)$ ,  $H_2(1/3)$ ,  $H_2(1/4)$ ,  $H_2(1/5)$ ,  $H_2(1/6)$ , and  $H_2(1/7)$ , respectively. Excess power was absolutely measured from the helium-hydrogen plasma. For an input of 41.9 W, the total plasma power of the helium-hydrogen plasma measured by water bath calorimetry was 62.1 W corresponding to 20.2 W of excess power in  $3\text{ cm}^3$  plasma volume. The excess power density and energy balance were high,  $6.7\text{ W/cm}^3$  and  $-5.4 \times 10^4\text{ kJ/mole } H_2$  ( $280\text{ eV/H atom}$ ), respectively. In addition to power applications, battery and propellant reactions are proposed that may be transformational, and observed excited vibration-rotational levels of  $H_2(1/4)$  could be the basis of a UV laser that could significantly advance photolithography.

**45. Dr. K.D. Keefer, Report on BlackLight Power Technology: Its Apparent Scientific Basis, State of Development and Stability for Commercialization by Liebert Corporation, (2001), and, Report on BlackLight Power Technology: Its Apparent Scientific Basis, State of Development and Stability for Commercialization, (2002).**

To separate reports disclosing the results of NMR, ToF-SIMS, XPS identification of novel hydrino hydride compounds and analysis of chemically-produced plasma by an expert hired by the Liebert Corporation, a division of the well-known and highly-respected Emerson Corporation. According to the expert's own words, he "observed demonstrations of the BlackLight Power (BLP) process and ...reached the inescapable conclusion that it is based on extraordinary chemical reactions that seem to release extraordinary amounts of energy.... It is [his] professional opinion that the BLP process represents a chemical conversion of atomic hydrogen unlike any previously reported [in] the archival scientific literature." Although the expert states that he was skeptical of Applicant's theory, he admitted that the chemical and plasma data did support Applicant's fractional quantum states and that he could offer no other explanation of the data using conventional quantum theory.

**44. A. J. Marchese, P. M. Jansson, J. L. Schmalzel, "The BlackLight Rocket Engine", Phase I Final Report, NASA Institute for Advanced Concepts Phase I, May 1-November 30, 2002,**

**[http://www.niac.usra.edu/files/studies/final\\_report/pdf/752Marchese.pdf](http://www.niac.usra.edu/files/studies/final_report/pdf/752Marchese.pdf).**

Rowan University Professors A. J. Marchese, P. M. Jansson, J. L. Schmalzel performed verification studies as visiting researchers at BlackLight Power, Cranbury, NJ. The prior reported results of BlackLight Power, Inc. of extraordinarily broadened atomic hydrogen lines, population inversion, lower-energy hydrogen lines, and excess power measured by water bath calorimetry were replicated. The application of the energetic hydrogen to propulsion was studied.

Specifically, the data supporting hydrinos was replicated. See  
i.) BlackLight Process Theory (pp. 10-12) which gives the theoretical energy levels for hydrinos and the catalytic reaction to form hydrinos,

ii.) Unique Hydrogen Line Broadening in Low Pressure Microwave Water Plasmas (pp. 25-27, particularly Fig. 21) which shows that in the same microwave cavity driven at the same power, the temperature of the hydrogen atoms in the microwave plasma where the hydrino reaction was active was 50 times that of the control based on the spectroscopic line widths,

iii.) Inversion of the Line Intensities in Hydrogen Balmer Series (pp. 27-28, particularly Fig. 22) which shows for the first time in 40 years of intensive worldwide research that atomic hydrogen population inversion was achieved in a steady state plasma and supports the high power released from the reaction of hydrogen to form hydrinos,

iv.) Novel Vacuum Ultraviolet (VUV) Vibration Spectra of Hydrogen Mixture Plasmas (pp. 28-29, particularly Fig. 23) which shows a novel vibrational series of lines in a helium-hydrogen plasmas at energies higher than any known vibrational series and it identically matches the theoretical prediction of 2 squared times the corresponding vibration of the ordinary hydrogen species, and

v.) Water Bath Calorimetry Experiments Showing Increased Heat Generation (pp. 29-30, particularly Fig. 25) that shows that with exactly the same system and same input power, the heating of the water reservoir absolutely measured to 1% accuracy was equivalent to 55 to 62 W with the catalyst-hydrogen mixture compared to 40 W in the control without the possibility of the reaction to form hydrinos.

**43. J. Phillips, R. L. Mills, X. Chen, "Water Bath Calorimetric Study of Excess Heat in 'Resonance Transfer' Plasmas", Journal of Applied Physics, Vol. 96, No. 6, pp. 3095-3102.**

J. Phillips, Distinguished National Laboratory Professor at Los Alamos National Laboratory and University of New Mexico, performed verification studies as a visiting researcher at BlackLight Power, Cranbury, NJ. Water bath calorimetry was used to demonstrate one more peculiar phenomenon associated with a certain class of mixed gas plasmas termed resonant transfer, or rt-plasmas. Specifically,  $He/H_2(10\%)$  (500 mTorr),  $Ar/H_2(10\%)$  (500 mTorr), and  $H_2O(g)$  (500 mTorr and 200 mTorr) plasmas



generated with an Evenson microwave cavity consistently yielded on the order of 50% more heat than non rt-plasma (controls) such as *He*, *Kr*, *Kr/H<sub>2</sub>*(10%), under identical conditions of gas flow, pressure, and microwave operating conditions. The excess power density of rt-plasmas was of the order  $10 \text{ W} \cdot \text{cm}^{-3}$ . In earlier studies with these same rt-plasmas it was demonstrated that other unusual features were present including dramatic broadening of the hydrogen Balmer series lines, unique vacuum ultraviolet (VUV) lines, and in the case of water plasmas, population inversion of the hydrogen excited states. Both the current results and the earlier results are completely consistent with the existence of a hitherto unknown exothermic chemical reaction, such as that predicted by Mills, occurring in rt-plasmas.

42. **R. L. Mills, P. C. Ray, R. M. Mayo, M. Nansteel, B. Dhandapani, J. Phillips, "Spectroscopic Study of Unique Line Broadening and Inversion in Low Pressure Microwave Generated Water Plasmas", J. Plasma Phys., submitted.**

J. Phillips, Distinguished National Laboratory Professor at Los Alamos National Laboratory and University of New Mexico, performed verification studies as a visiting researcher at BlackLight Power, Cranbury, NJ. It was demonstrated that low pressure ( $\sim 0.2$  Torr) water vapor plasmas generated in a 10 mm ID quartz tube with an Evenson microwave cavity show at least two features which are not explained by conventional plasma models. First, significant ( $> 2.5 \text{ \AA}$ ) hydrogen Balmer  $\alpha$  line broadening was recorded, of constant width, up to 5 cm from the microwave coupler. Only hydrogen, and not oxygen, showed significant line broadening. This feature, observed previously in hydrogen-containing mixed gas plasmas generated with high voltage DC and RF discharges was explained by some researchers to result from acceleration of hydrogen ions near the cathode. This explanation cannot apply to the line broadening observed in the (electrodeless) microwave plasmas generated in this work, particularly at distances as great as 5 cm from the microwave coupler. Second, dramatic inversion of the line intensities of both the Lyman and Balmer series, again, at distances up to 5 cm from the coupler were observed. The dramatic line inversion suggests the existence of a hitherto unknown source of pumping of the optical power in plasmas. Finally, it is

notable that other aspects of the plasma including the  $OH^*$  rotational temperature and low electron concentrations are quite typical of plasmas of this type.

41. H. Conrads, R. Mills, Th. Wrubel, "Emission in the Deep Vacuum Ultraviolet from a Plasma Formed by Incandescently Heating Hydrogen Gas with Trace Amounts of Potassium Carbonate", *Plasma Sources Science and Technology*, Vol. 12, (2003), pp. 389-395.

The generation of a hydrogen plasma with intense extreme ultraviolet and visible emission was observed at Ruhr University, Bochum, Germany from low pressure hydrogen gas (0.1-1 mbar) in contact with a hot tungsten filament only when the filament heated a titanium dissociator coated with  $K_2CO_3$  above 750°C. The dissociator was electrically floated, and the electric field strength from the filament was about 1 V/cm, two orders of magnitude lower than the starting voltages measured for gas glow discharges. The emission of the  $H_\alpha$  and  $H_\beta$  transitions as well as the  $L_\alpha$  and  $L_\beta$  transitions were recorded and analyzed. The plasma seemed to be far from thermal equilibrium, and no conventional mechanism was found to explain the formation of a hydrogen plasma by incandescently heating hydrogen gas with the presence of trace amounts of  $K_2CO_3$ . The temporal behavior of the plasma was recorded via hydrogen Balmer alpha line emission when all power into the cell was terminated. A two second decay of the plasma was observed after a fast decay of the electric field to zero. The plasma was found to be dependent on the chemistry of atomic hydrogen with potassium since no plasma formed with  $Na_2CO_3$  replacing  $K_2CO_3$  and the time constant of the emission following the removal of all of the power to the cell matched that of the cooling of the filament and the resulting shift from atomic to molecular hydrogen. Our results indicate that a novel chemical power source is present that forms the energetic hydrogen plasma. The plasma is a potential new light source.

40. R. Mills, "Observation of Extreme Ultraviolet Emission from Hydrogen-KI Plasmas Produced by a Hollow Cathode Discharge", *Int. J. Hydrogen Energy*, Vol. 26, No. 6, (2001), pp. 579-592.

A high voltage discharge of hydrogen with and without the presence of a source of potassium, potassium iodide, in the discharge was performed at Institut für Niedertemperatur-Plasmaphysik e.V. (INP Greifswald, Germany) with a hollow cathode. It has been reported that intense extreme ultraviolet (EUV) emission was observed at low temperatures (e.g.  $< 10^3$  K) from atomic hydrogen and certain atomized elements or certain gaseous ions which ionize at integer multiples of the potential energy of atomic hydrogen, 27.2 eV [1, 3-5]. Two potassium ions or a potassium atom may each provide an electron ionization or transfer reaction that has a net enthalpy equal to an integer multiple of 27.2 eV. The spectral lines of atomic hydrogen were intense enough to be recorded on photographic films only when KI was present. EUV lines not assignable to potassium, iodine, or hydrogen were observed at 73.0, 132.6, 513.6, 677.8, 885.9, and 1032.9 Å. The lines are assigned to transitions of atomic hydrogen to lower energy levels corresponding to lower energy hydrogen atoms called hydrino atoms and the emission from the excitation of the corresponding hydride ions formed from the hydrino atoms.

39. R. Mills, "Temporal Behavior of Light-Emission in the Visible Spectral Range from a Ti-K<sub>2</sub>CO<sub>3</sub>-H-Cell", Int. J. Hydrogen Energy, Vol. 26, No. 4, (2001), pp. 327-332.

Institut für Niedertemperatur-Plasmaphysik e.V. (INP Greifswald, Germany) reports the generation of a hydrogen plasma and extreme ultraviolet emission as recorded via the hydrogen Balmer emission in the visible range. Typically a hydrogen plasma is generated and the emission of extreme ultraviolet light from hydrogen gas is achieved via a discharge at high voltage, a high power inductively coupled plasma, or a plasma created and heated to extreme temperatures by RF coupling (e.g.  $> 10^6$  K) with confinement provided by a toroidal magnetic field. The observed plasma formed at low temperatures (e.g.  $\approx 10^3$  K) from atomic hydrogen generated at a tungsten filament that heated a titanium dissociator coated with potassium carbonate. The temporal behavior of the plasma was recorded via hydrogen Balmer alpha line emission when all power into the cell was terminated. A two second decay of the plasma was observed after a

fast decay of the electric field to zero. The persistence of emission following the removal of all of the power to the cell indicates that a novel chemical power source is present that forms an energetic plasma in hydrogen. No unusual behavior was observed with the control sodium carbonate.

**38. R. Mills, J. Sankar, A. Voigt, J. He, P. Ray, B. Dhandapani, "Synthesis and Characterization of Diamond Films from MPCVD of an Energetic Argon-Hydrogen Plasma and Methane", Materials Science, submitted.**

Polycrystalline diamond films were synthesized on silicon substrates by a low power (~80 W) microwave plasma chemical vapor deposition (MPCVD) reaction of a mixture of argon-hydrogen-methane (17.5/80/2.5%). The films were characterized by time of flight secondary ion mass spectroscopy (ToF-SIMS), X-ray photoelectron spectroscopy (XPS) (Zettlemoyer Center for Surface Studies, Sinclair Laboratory, Lehigh University, Bethlehem, PA), Raman spectroscopy (Charles Evans & Associates, Sunnyvale, CA), scanning electron microscopy (SEM) (S. S. W., University of Western Ontario, Canada), and X-ray diffraction (XRD) (IC Laboratories, Amawalk, NY). It is proposed that  $Ar^+$  served as a catalyst with atomic hydrogen to form an energetic plasma.  $CH$ ,  $C_2$ , and  $C_3$  emissions were observed with significantly broadened  $H \alpha$  line. The average hydrogen atom temperature of a argon-hydrogen-methane plasma was measured to be 110 - 130 eV versus  $\approx 3$  eV for pure hydrogen. Bombardment of the carbon surface by highly energetic hydrogen formed by the catalysis reaction may play a role in the formation of diamond. Then, by this novel pathway, the relevance of the  $CO$  tie line is eliminated along with other stringent conditions and complicated and inefficient techniques which limit broad application of the versatility and superiority of diamond thin film technology.

**37. R. Mills, P. Ray, B. Dhandapani, W. Good, P. Jansson, M. Nansteel, J. He, A. Voigt, "Spectroscopic and NMR Identification of Novel Hydride Ions in Fractional Quantum Energy States Formed by an Exothermic Reaction of Atomic Hydrogen with Certain Catalysts", J. Phys. Chem. A, submitted.**

$2K^+$  to  $K + K^{2+}$  and  $K$  to  $K^{3+}$  provide a reaction with a net enthalpy equal to the one and three times the potential energy of atomic hydrogen, respectively. The presence of these gaseous ions or atoms with thermally dissociated hydrogen formed a so-called resonance transfer (rt) plasma having strong VUV emission with a stationary inverted Lyman population. Significant line broadening of the Balmer  $\alpha$ ,  $\beta$ , and  $\gamma$  lines of 18 eV was observed, compared to 3 eV from a hydrogen microwave plasma. Emission from rt-plasmas occurred even when the electric field applied to the plasma was zero as recorded at Institut für Niedertemperatur-Plasmaphysik e.V. (INP Greifswald, Germany). The reaction was exothermic since excess power of  $20 \text{ mW} \cdot \text{cm}^{-3}$  was measured by Calvet calorimetry. An energetic catalytic reaction was proposed involving a resonant energy transfer between hydrogen atoms and  $2K^+$  or  $K$  to form very stable novel hydride ions  $H^-(1/p)$  called hydrino hydrides having a fractional principal quantum numbers  $p = 2$  and  $p = 4$ , respectively. Characteristic emission was observed from  $K^{2+}$  and  $K^{3+}$  that confirmed the resonant nonradiative energy transfer of  $27.2 \text{ eV}$  and  $3 \cdot 27.2 \text{ eV}$  from atomic hydrogen to  $2K^+$  and  $K$ , respectively.

The predicted binding energy of  $H^-(1/2)$  of  $3.0471 \text{ eV}$  with the fine structure was observed at  $4071 \text{ Å}$ , and its predicted bound-free hyperfine structure lines  $E_{\text{HF}} = j^2 3.00213 \times 10^{-5} + 3.0563 \text{ eV}$  ( $j$  is an integer) matched those observed for  $j = 1$  to  $j = 37$  to within a 1 part per  $10^4$ .  $H^-(1/4)$  was observed spectroscopically at  $110 \text{ nm}$  corresponding to its predicted binding energy of  $11.2 \text{ eV}$ . The  $^1\text{H}$  MAS NMR spectrum (Spectral Data Services, Inc., Champaign, IL) of novel compound  $KH^*Cl$  relative to external tetramethylsilane (TMS) showed a large distinct upfield resonance at  $-4.4$  corresponding to an absolute resonance shift of  $-35.9 \text{ ppm}$  that matched the theoretical prediction of  $p = 4$ . A novel NMR (Grace Davison, Columbia, MD and Spectral Data Services, Inc., Champaign, IL) peak of  $KH^*I$  at  $-1.5 \text{ ppm}$  relative to TMS corresponding to an absolute resonance shift of  $-33.0 \text{ ppm}$  matched the theoretical prediction of  $p = 2$ . The predicted catalyst reactions, position of the upfield-shifted NMR peaks, and spectroscopic data for  $H^-(1/2)$  and  $H^-(1/4)$  were found to be in agreement.

**36. R. L. Mills, P. Ray, B. Dhandapani, J. He, "Novel Liquid-Nitrogen-Condensable Molecular Hydrogen Gas", Acta Physica Polonica A, submitted.**

Extreme ultraviolet (EUV) spectroscopy was recorded on microwave discharges of helium with 2% hydrogen. Novel emission lines were observed with energies of  $q \cdot 13.6 \text{ eV}$  where  $q = 1, 2, 3, 4, 6, 7, 8, 9, 11$  or these discrete energies less  $21.2 \text{ eV}$  corresponding to inelastic scattering of these photons by helium atoms due to excitation of  $\text{He}(1s^2)$  to  $\text{He}(1s^1 2p^1)$ . These lines matched  $H(1/p)$ , fractional Rydberg states of atomic hydrogen, formed by a resonant nonradiative energy transfer to  $\text{He}^+$ .

Corresponding emission due to the reaction  $2H(1/2) \rightarrow H_2(1/2)$  with vibronic coupling at

$$E_{D+vib} = p^2 E_{D H_2} \pm \left( \frac{\nu^*}{3} \right) E_{vib H_2(\nu=0 \rightarrow \nu=1)}, \quad \nu^* = 1, 2, 3 \dots$$

was observed at the longer

wavelengths for  $\nu^* = 2$  to  $\nu^* = 32$  and at the shorter wavelengths for  $\nu^* = 1$  to  $\nu^* = 16$  where  $E_{D H_2}$  and  $E_{vib H_2(\nu=0 \rightarrow \nu=1)}$  are the experimental bond and vibrational energies of  $H_2$ , respectively. Fractional-principal-quantum-level molecular hydrogen  $H_2(1/p)$  gas was isolated by liquefaction using an ultrahigh-vacuum, liquid nitrogen cryotrap and was characterized by gas chromatography (GC), mass spectroscopy (MS), optical emission spectroscopy (OES), and  $^1\text{H}$  NMR (Rider University, Lawrenceville NJ) of the condensable gas dissolved in  $\text{CDCl}_3$ . The condensable gas was highly pure hydrogen by GC and MS and had a higher ionization energy than  $H_2$ . An upfield shifted NMR peaks were observed at 3.47 and 2.18 ppm compared to that of  $H_2$  at 4.63 ppm. A theoretical rocketry propellant reaction is given that may be transformational.

**35. R. L. Mills, J. Sankar, A. Voigt, J. He, B. Dhandapani, "Spectroscopic Characterization of the Atomic Hydrogen Energies and Densities and Carbon Species During Helium-Hydrogen-Methane Plasma CVD Synthesis of Single Crystal Diamond Films", Chemistry of Materials, Vol. 15, (2003), pp. 1313-1321.**

Polycrystalline diamond films were synthesized on silicon substrates for the first time without diamond seeding by a very low power (38 W) microwave plasma continuous vapor deposition (MPCVD) reaction of a mixture of helium-hydrogen-

methane (48.2/48.2/3.6%). The films were characterized by time of flight secondary ion mass spectroscopy (ToF-SIMS), X-ray photoelectron spectroscopy (XPS) (Zettlemoyer Center for Surface Studies, Sinclair Laboratory, Lehigh University, Bethlehem, PA), Raman spectroscopy (Charles Evans & Associates, Sunnyvale, CA and Jobin Yvon Inc., Edison, NJ), scanning electron microscopy (SEM) (S. S. W., University of Western Ontario, Canada and Material Testing Laboratory, Pennington, NJ), and X-ray diffraction (XRD) (IC Laboratories, Amawalk, NY). It is proposed that  $He^+$  served as a catalyst with atomic hydrogen to form an energetic plasma.  $CH$ ,  $C_2$ , and  $C_3$  emissions were observed with significantly broadened  $H \alpha$ ,  $\beta$ ,  $\gamma$ , and  $\delta$  lines. The average hydrogen atom temperature of a helium-hydrogen-methane plasma was measured to be 120 - 140 eV versus  $\approx 3$  eV for pure hydrogen. Bombardment of the carbon surface by highly energetic hydrogen formed by the catalysis reaction may play a role in the formation of diamond. Then, by this novel pathway, the relevance of the  $CO$  tie line is eliminated along with other stringent conditions and complicated and inefficient techniques which limit broad application of the versatility and superiority of diamond thin film technology.

**34. R. L. Mills, J. Sankar, A. Voigt, J. He, B. Dhandapani, "Low Power MPCVD of Diamond Films on Silicon Substrates", Journal of Vacuum Science & Technology A, submitted.**

Polycrystalline diamond films were synthesized on silicon substrates for the first time without diamond seeding by a very low power (38 W) microwave plasma continuous vapor deposition (MPCVD) reaction of a mixture of 10-30% hydrogen, 90-70% helium, and 1-10%  $CH_4$ . The films were characterized by time of flight secondary ion mass spectroscopy (ToF-SIMS), X-ray photoelectron spectroscopy (XPS) (Zettlemoyer Center for Surface Studies, Sinclair Laboratory, Lehigh University, Bethlehem, PA), Raman spectroscopy (Charles Evans & Associates, Sunnyvale, CA), scanning electron microscopy (SEM) (S. S. W., University of Western Ontario, Canada and Material Testing Laboratory, Pennington, NJ), and X-ray diffraction (XRD) (IC Laboratories, Amawalk, NY). It is proposed that  $He^+$  served as a catalyst with atomic

hydrogen to form an energetic plasma. The average hydrogen atom temperature was measured to be 180-210 eV versus  $\approx 3$  eV for pure hydrogen. The electron temperature  $T_e$  for helium-hydrogen was 28,000 K compared to 6800 K for pure helium. Bombardment of the carbon surface by highly energetic hydrogen formed by the catalysis reaction may play a role in the formation of diamond. Then, by this novel pathway, the relevance of the CO tie line is eliminated along with other stringent conditions and complicated and inefficient techniques which limit broad application of the versatility and superiority of diamond thin film technology.

**33. R. L. Mills, A. Voigt, B. Dhandapani, J. He, "Synthesis and Spectroscopic Identification of Lithium Chloro Hydride", Materials Characterization, submitted.**

A novel inorganic hydride compound, lithium chloro hydride ( $LiHCl$ ), which comprises a high binding energy hydride ion was synthesized by reaction of atomic hydrogen with potassium metal and lithium chloride. Lithium chloro hydride was identified by time of flight secondary ion mass spectroscopy, X-ray photoelectron spectroscopy (Zettlemoyer Center for Surface Studies, Sinclair Laboratory, Lehigh University, Bethlehem, PA),  $^1H$  nuclear magnetic resonance spectroscopy (Spectral Data Services, Inc., Champaign, IL), and powder X-ray diffraction (IC Laboratories, Amawalk, NY). Hydride ions with increased binding energies may form many novel compounds with broad applications such as the oxidant of a high voltage battery.

**32. R. L. Mills, B. Dhandapani, J. He, "Highly Stable Amorphous Silicon Hydride", Solar Energy Materials & Solar Cells, Vol. 80, No. 1, (2003), pp. 1-20.**

A novel highly stable hydrogen terminated silicon coating was synthesized by microwave plasma reaction of mixture of silane, hydrogen, and helium wherein it is proposed that  $He^+$  served as a catalyst with atomic hydrogen to form highly stable silicon hydrides. Novel silicon hydride was identified by time of flight secondary ion mass spectroscopy and X-ray photoelectron spectroscopy. The time of flight secondary ion mass spectroscopy (ToF-SIMS) identified the coatings as hydride by the large  $SiH^+$



peak in the positive spectrum and the dominant  $H^-$  in the negative spectrum. Since hydrogen is the only element with no primary element peaks, X-ray photoelectron spectroscopy (XPS) (Zettlemoyer Center for Surface Studies, Sinclair Laboratory, Lehigh University, Bethlehem, PA) identified the  $H$  content of the  $SiH$  coatings as comprising novel silicon hydrides due to new peaks at 11, 43, and 55 eV in the absence of corresponding peaks of any candidate element at higher binding energies. The silicon hydride surface was remarkably stable to air as shown by XPS. The highly stable amorphous silicon hydride coating may advance the production of integrated circuits and microdevices by resisting the oxygen passivation of the surface and possibly altering the dielectric constant and band gap to increase device performance.

**31. R. L. Mills, J. Sankar, A. Voigt, J. He, B. Dhandapani, "Synthesis of HDLC Films from Solid Carbon", Thin Solid Films, submitted.**

Diamond-like carbon (DLC) films were synthesized on silicon substrates from solid carbon by a very low power (~60 W) microwave plasma chemical vapor deposition (MPCVD) reaction of a mixture of 90-70% helium and 10-30% hydrogen. It is proposed that  $He^+$  served as a catalyst with atomic hydrogen to form an energetic plasma. The average hydrogen atom temperature of a helium-hydrogen plasma was measured to be 180-210 eV versus  $\approx 3$  eV for pure hydrogen. Bombardment of the carbon surface by highly energetic hydrogen formed by the catalysis reaction may play a role in the formation of DLC. The films were characterized by time of flight secondary ion mass spectroscopy (ToF-SIMS), X-ray photoelectron spectroscopy (XPS) (Zettlemoyer Center for Surface Studies, Sinclair Laboratory, Lehigh University, Bethlehem, PA), and Raman spectroscopy (Charles Evans & Associates, Sunnyvale, CA). TOF-SIMS identified the coatings as hydride by the large  $H^+$  peak in the positive spectrum and the dominant  $H^-$  in the negative spectrum. The XPS identification of the  $H$  content of the  $CH$  coatings as a novel hydride corresponding to a peak at 49 eV has implications that the mechanism of the DLC formation may also involve one or both of selective etching of graphitic carbon and the stabilization of  $sp^3$ -bonded carbon by the hydrogen catalysis

product. Thus, a novel  $H$  intermediate formed by the plasma catalysis reaction may enhance the stabilization and etching role of  $H$  used in past methods.

**30. R. L. Mills, J. He, P. Ray, B. Dhandapani, X. Chen, "Synthesis and Characterization of a Highly Stable Amorphous Silicon Hydride as the Product of a Catalytic Helium-Hydrogen Plasma Reaction", Int. J. Hydrogen Energy, in press.**

A novel highly stable surface coating  $SiH(1/p)$  which comprised high binding energy hydride ions was synthesized by a microwave plasma reaction of a mixture of silane, hydrogen, and helium wherein it is proposed that  $He^+$  served as a catalyst with atomic hydrogen to form the highly stable hydride ions. Novel silicon hydride was identified by time of flight secondary ion mass spectroscopy and X-ray photoelectron spectroscopy. The time of flight secondary ion mass spectroscopy (ToF-SIMS) identified the coatings as hydride by the large  $SiH^+$  peak in the positive spectrum and the dominant  $H^-$  in the negative spectrum. X-ray photoelectron spectroscopy (XPS) (Zettlemoyer Center for Surface Studies, Sinclair Laboratory, Lehigh University, Bethlehem, PA) identified the  $H$  content of the  $SiH$  coatings as hydride ions,  $H^-(1/4)$ ,  $H^-(1/9)$ , and  $H^-(1/11)$  corresponding to peaks at 11, 43, and 55 eV, respectively. The silicon hydride surface was remarkably stable to air as shown by XPS. The highly stable amorphous silicon hydride coating may advance the production of integrated circuits and microdevices by resisting the oxygen passivation of the surface and possibly altering the dielectric constant and band gap to increase device performance.

The plasma which formed  $SiH(1/p)$  showed a number of extraordinary features. Novel emission lines with energies of  $q \cdot 13.6 \text{ eV}$  where  $q = 1, 2, 3, 4, 6, 7, 8, 9, \text{ or } 11$  were previously observed by extreme ultraviolet (EUV) spectroscopy recorded on microwave discharges of helium with 2% hydrogen [R. Mills, P. Ray, "Spectral Emission of Fractional Quantum Energy Levels of Atomic Hydrogen from a Helium-Hydrogen Plasma and the Implications for Dark Matter", Int. J. Hydrogen Energy, Vol. 27, No. 3, pp. 301-322]. These lines matched  $H(1/p)$ , fractional Rydberg states of atomic hydrogen where  $p$  is an integer, formed by a resonant nonradiative energy transfer to

$He^+$  acting as a catalyst. The average hydrogen atom temperature of the helium-hydrogen plasma was measured to be 180-210 eV versus  $\approx 3$  eV for pure hydrogen. Using water bath calorimetry, excess power was observed from the helium-hydrogen plasma compared to control krypton plasma. For example, for an input of 8.1 W, the total plasma power of the helium-hydrogen plasma measured by water bath calorimetry was 30.0 W corresponding to 21.9 W of excess power in  $3\text{ cm}^3$ . The excess power density and energy balance were high,  $7.3\text{ W/cm}^3$  and  $-2.9 \times 10^4\text{ kJ/mole H}_2$ , respectively. This catalytic plasma reaction may represent a new hydrogen energy source and a new field of hydrogen chemistry.

**29. R. L. Mills, A. Voigt, B. Dhandapani, J. He, "Synthesis and Characterization of Lithium Chloro Hydride", Int. J. Hydrogen Energy, submitted.**

A novel inorganic hydride compound lithium chloro hydride,  $LiHCl$ , which comprises a high binding energy hydride ion was synthesized by reaction of atomic hydrogen with potassium metal and lithium chloride. Lithium chloro hydride was identified by time of flight secondary ion mass spectroscopy, X-ray photoelectron spectroscopy (Zettlemoyer Center for Surface Studies, Sinclair Laboratory, Lehigh University, Bethlehem, PA),  $^1H$  nuclear magnetic resonance spectroscopy (Spectral Data Services, Inc., Champaign, IL), and powder X-ray diffraction (IC Laboratories, Amawalk, NY). Hydride ions with increased binding energies may form many novel compounds with broad applications such as the oxidant of a high voltage battery.

**28. R. Mills, E. Dayalan, P. Ray, B. Dhandapani, J. He, "Highly Stable Novel Inorganic Hydrides from Aqueous Electrolysis and Plasma Electrolysis", Electrochimica Acta, Vol. 47, No. 24, (2002), pp. 3909-3926.**

After  $10^4$  hours of continuous aqueous electrolysis with  $K_2CO_3$  as the electrolyte, highly stable novel inorganic hydride compounds such as  $KH KHCO_3$  and  $KH$  were isolated and identified by time of flight secondary ion mass spectroscopy (ToF-SIMS) (Charles Evans East, East Windsor, NJ). The existence of novel hydride ions was determined using X-ray photoelectron spectroscopy (XPS) (Zettlemoyer Center for

Surface Studies, Sinclair Laboratory, Lehigh University, Bethlehem, PA) and solid state magic-angle spinning  $^1H$  nuclear magnetic resonance spectroscopy ( $^1H$  MAS NMR) (Spectral Data Services, Inc., Champaign, IL). A novel ion formed by plasma electrolysis of a  $K_2CO_3$ ,  $Rb_2CO_3$ , or  $Cs_2CO_3$  electrolyte was also observed by high resolution visible spectroscopy at 407.0 nm corresponding to its predicted binding energy of  $3.05\text{ eV}$ .

27. R. Mills, B. Dhandapani, M. Nansteel, J. He, A. Voigt, "Identification of Compounds Containing Novel Hydride Ions by Nuclear Magnetic Resonance Spectroscopy", *Int. J. Hydrogen Energy*, Vol. 26, No. 9, Sept. (2001), pp. 965-979.

Novel inorganic alkali and alkaline earth hydrides of the formula  $MH^*$ ,  $MH_2^*$ , and  $MH^*X$  wherein  $M$  is the metal,  $X$ , is a halide, and  $H^*$  comprises a novel high binding energy hydride ion were synthesized in a high temperature gas cell by reaction of atomic hydrogen with a catalyst and  $MH$ ,  $MH_2$ , or  $MX$  corresponding to an alkali metal or alkaline earth metal compound, respectively. Novel hydride ions of the corresponding novel hydride compounds were characterized by an extraordinary upfield shifted peak observed by  $^1H$  nuclear magnetic resonance spectroscopy. The result were confirmed on five different instruments at five independent laboratories (Spectral Data Services, Inc., Champaign, IL, National Research Council of Canada, University of Massachusetts Amherst, Amherst, MA, University of Delaware, Wilmington, DE, and Grace Davison, Columbia, MD).

26. R. Mills, B. Dhandapani, N. Greenig, J. He, "Synthesis and Characterization of Potassium Iodo Hydride", *Int. J. of Hydrogen Energy*, Vol. 25, Issue 12, December, (2000), pp. 1185-1203.

A novel inorganic hydride compound  $KHI$  which comprises a high binding energy hydride ion was synthesized by reaction of atomic hydrogen with potassium metal and potassium iodide. Potassium iodo hydride was identified by time of flight secondary ion mass spectroscopy, X-ray photoelectron spectroscopy (Zettlemoyer

Center for Surface Studies, Sinclair Laboratory, Lehigh University, Bethlehem, PA),  $^1\text{H}$  and  $^{39}\text{K}$  nuclear magnetic resonance spectroscopy (Spectral Data Services, Inc., Champaign, IL), Fourier transform infrared spectroscopy (Surface Science Laboratories, Mountain View, CA), electrospray ionization time of flight mass spectroscopy (Perkin-Elmer Biosystems, Framingham, MA), liquid chromatography/mass spectroscopy (Ricerca, Inc., Painesville, Ohio), thermal decomposition with analysis by gas chromatography, and mass spectroscopy, and elemental analysis (Galbraith Laboratories, Inc., Knoxville, TN). Hydride ions with increased binding energies may form many novel compounds with broad applications.

**25. R. Mills, "Novel Inorganic Hydride", Int. J. of Hydrogen Energy, Vol. 25, (2000), pp. 669-683.**

A novel inorganic hydride compound  $\text{KHKHCO}_3$  which is stable in water and comprises a high binding energy hydride ion was isolated following the electrolysis of a  $\text{K}_2\text{CO}_3$  electrolyte. Inorganic hydride clusters  $\text{K}[\text{KHKHCO}_3]^+$  were identified by Time of Flight Secondary Ion Mass Spectroscopy (Charles Evans East, East Windsor, NJ). Moreover, the existence of a novel hydride ion has been determined using X-ray photoelectron spectroscopy (Zettlemoyer Center for Surface Studies, Sinclair Laboratory, Lehigh University, Bethlehem, PA), and  $^1\text{H}$  nuclear magnetic resonance spectroscopy (Spectral Data Services, Inc., Champaign, IL). Hydride ions with increased binding energies may be the basis of a high voltage battery for electric vehicles.

**24. R. Mills, B. Dhandapani, M. Nansteel, J. He, T. Shannon, A. Echezuria, "Synthesis and Characterization of Novel Hydride Compounds", Int. J. of Hydrogen Energy, Vol. 26, No. 4, (2001), pp. 339-367.**

Novel inorganic alkali and alkaline earth hydrides of the formula  $\text{MHX}$  and  $\text{MHMX}$  wherein  $M$  is the metal,  $X$ , is a singly negatively charged anion, and  $H$  comprises a novel high binding energy hydride ion were synthesized in a high temperature gas cell by reaction of atomic hydrogen with a catalyst and  $\text{MX}$  or  $\text{MX}_2$

corresponding to an alkali metal or alkaline earth metal, respectively. It has been reported that intense extreme ultraviolet (EUV) emission was observed at low temperatures (e.g.  $\approx 10^3$  K) from atomic hydrogen and certain atomized elements or certain gaseous ions which ionize at integer multiples of the potential energy of atomic hydrogen, 27.2 eV [1-5]. These atomized elements or certain gaseous ions comprised the catalyst to form *MHX* and *MHMX*. For example, atomic hydrogen was reacted with strontium vapor and  $SrBr_2$  to form *SrHBr*. Novel hydride compounds such as *SrHBr* were identified by time of flight secondary ion mass spectroscopy, X-ray photoelectron spectroscopy (Zettlemoyer Center for Surface Studies, Sinclair Laboratory, Lehigh University, Bethlehem, PA),  $^1H$  nuclear magnetic resonance spectroscopy (Spectral Data Services, Inc., Champaign, IL), and thermal decomposition with analysis by gas chromatography, and mass spectroscopy. Hydride ions with increased binding energies form novel compounds with potential broad applications such as a high voltage battery for consumer electronics and electric vehicles. In addition, these novel compositions of matter and associated technologies may have far-reaching applications in many industries including chemical, electronics, computer, military, energy, and aerospace in the form of products such as propellants, solid fuels, surface coatings, structural materials, and chemical processes.

**23. R. Mills, "Highly Stable Novel Inorganic Hydrides", *Journal of New Materials for Electrochemical Systems*, Vol. 6, (2003), pp. 45-54.**

Novel inorganic hydride compounds  $KHKHCO_3$  and *KH* were isolated following the electrolysis of a  $K_2CO_3$  electrolyte. The compounds which comprised high binding energy hydride ions were stable in water, and *KH* was stable at elevated temperature (600 °C). Inorganic hydride clusters  $K[KHKHCO_3]^+$  were identified by positive Time of Flight Secondary Ion Mass Spectroscopy (ToF-SIMS) of  $KHKHCO_3$  (Charles Evans East, East Windsor, NJ). The negative ToF-SIMS was dominated by hydride ion. The positive and negative ToF-SIMS of *KH* showed essentially  $K^+$  and  $H^-$  only, respectively. Moreover, the existence of novel hydride ions was determined using X-ray photoelectron spectroscopy (Zettlemoyer Center for Surface Studies, Sinclair

Laboratory, Lehigh University, Bethlehem, PA), and  $^1H$  nuclear magnetic resonance spectroscopy (Spectral Data Services, Inc., Champaign, IL). Hydride ions with increased binding energies may be the basis of a high voltage battery for electric vehicles.

**22. R. Mills, "Novel Hydrogen Compounds from a Potassium Carbonate Electrolytic Cell", *Fusion Technology*, Vol. 37, No. 2, March, (2000), pp. 157-182.**

Novel compounds containing hydrogen in new hydride and polymeric states which demonstrate novel hydrogen chemistry have been isolated following the electrolysis of a  $K_2CO_3$  electrolyte with the production of excess energy. Inorganic hydride clusters  $K[KH KHCO_3]^+$  and hydrogen polymer ions such as  $OH_{23}^+$  and  $H_{16}^-$  were identified by time of flight secondary ion mass spectroscopy (Charles Evans East, East Windsor, NJ). The presence of compounds containing new states of hydrogen were confirmed by X-ray photoelectron spectroscopy (Zettlemoyer Center for Surface Studies, Sinclair Laboratory, Lehigh University, Bethlehem, PA), X-ray diffraction, Fourier transform infrared spectroscopy (Surface Science Laboratories, Mountain View, CA), Raman spectroscopy (Environmental Catalysis and Materials Laboratory of Virginia Polytechnic Institute), and  $^1H$  nuclear magnetic resonance spectroscopy (Spectral Data Services, Inc., Champaign, IL).

**21. Mills, R., Good, W., "Fractional Quantum Energy Levels of Hydrogen", *Fusion Technology*, Vol. 28, No. 4, November, (1995), pp. 1697-1719.**

Determination of excess heat release during the electrolysis of aqueous potassium carbonate by the very accurate and reliable method of heat measurement, flow calorimetry; describes the experimental identification of hydrogen atoms in fractional quantum energy levels—hydrinos—by X-ray Photoelectron Spectroscopy (XPS) (Zettlemoyer Center for Surface Studies, Sinclair Laboratory, Lehigh University, Bethlehem, PA); describes the experimental identification of hydrogen atoms in fractional quantum energy levels—hydrinos—by emissions of soft X-rays from dark

matter; describes the experimental identification of hydrogen molecules in fractional quantum energy levels—dihydrino molecules by high resolution magnetic sector mass spectroscopy with ionization energy determination, and gives a summary.

In summary:

Excess power and heat were observed during the electrolysis of aqueous potassium carbonate. Flow calorimetry of pulsed current electrolysis of aqueous potassium carbonate at a nickel cathode was performed in a single-cell dewar. The average power out of 24.6 watts exceeded the average input power (voltage times current) of 4.73 watts by a factor greater than 5. The total input energy (integration of voltage times current) over the entire duration of the experiment was 5.72 MJ; whereas, the total output energy was 29.8 MJ. No excess heat was observed when the electrolyte was changed from potassium carbonate to sodium carbonate. The source of heat is assigned to the electrocatalytic, exothermic reaction whereby the electrons of hydrogen atoms are induced to undergo transitions to quantized energy levels below the conventional "ground state". These lower energy states correspond to fractional quantum numbers:  $n = 1/2, 1/3, 1/4, \dots$ . Transitions to these lower energy states are stimulated in the presence of pairs of potassium ions ( $K^+/K^+$  electrocatalytic couple) which provide 27.2 eV energy sinks.

The identification of the  $n = 1/2$  hydrogen atom,  $H(n = 1/2)$  is reported. Samples of the nickel cathodes of aqueous potassium carbonate electrolytic cells and aqueous sodium carbonate electrolytic cells were analyzed by XPS (Zettlemoyer Center for Surface Studies, Sinclair Laboratory, Lehigh University, Bethlehem, PA). A broad peak centered at 54.6 eV was present only in the cases of the potassium carbonate cells. The binding energy (in vacuum) of  $H(n = 1/2)$  is 54.4 eV. Thus, the theoretical and measured binding energies for  $H(n = 1/2)$  are in excellent agreement.

Further experimental identification of hydrinos—down to  $H(n = 1/8)$ —can be found in the alternative explanation by Mills et al. for the soft X-ray emissions of the dark interstellar medium observed by Labov and Bowyer [Labov, S., Bowyer, S., "Spectral observations of the extreme ultraviolet background", *The Astrophysical Journal*, 371, (1991), pp. 810-819] of the Extreme UV Center of the University of California, Berkeley.



The agreement between the experimental spectrum and the energy values predicted for the proposed transitions is remarkable.

The reaction product of two  $H(n=1/2)$  atoms, the dihydrino molecule, was identified by mass spectroscopy (Shrader Analytical & Consulting Laboratories). The mass spectrum of the cryofiltered gases evolved during the electrolysis of a light water  $K_2CO_3$  electrolyte with a nickel cathode demonstrated that the dihydrino molecule,  $H_2\left(n = \frac{1}{2}\right)$ , has a higher ionization energy, about 63 eV, than normal molecular hydrogen,  $H_2(n = 1)$ , 15.46 eV. The high resolution (0.001 AMU) magnetic sector mass spectroscopic analysis of the postcombustion gases indicated the presence of two peaks of nominal mass two-- one peak at 70 eV and one peak at 25 eV. The same analysis of molecular hydrogen indicates only one peak at 25 eV and one peak at 70 eV. In the case of the postcombustion sample at 70 eV, one peak was assigned as the hydrogen molecular ion peak,  $H_2^+(n = 1)$ , and one peak was assigned as the dihydrino molecular peak,  $H_2^+\left(n = \frac{1}{2}\right)$  which has a slightly larger magnetic moment.

**20. Mills, R., Good, W., Shaubach, R., "Dihydrino Molecule Identification", *Fusion Technology*, Vol. 25, 103 (1994).**

Calorimetry of pulsed current and continuous electrolysis of aqueous potassium carbonate ( $K^+/K^+$  electrocatalytic couple) at a nickel cathode was performed by Thermacore, Inc., Lancaster, PA. The excess power out of 41 watts exceeded the total input power given by the product of the electrolysis voltage and current by a factor greater than 8. Elemental analysis of the electrolyte and metallurgical analysis of the cathode showed no evidence of chemical reactions. The pH, specific gravity, concentration of  $K_2CO_3$ , and the elemental analysis of the electrolyte sample taken after 42 days of continuous operation were unchanged from that of the values obtained for the electrolyte sample taken before operation. Elemental analysis and scanning electron microscopy of metallurgical samples of the nickel cathode taken before operation and at day 56 of continuous operation were identical indicating that the nickel cathode had not changed chemically or physically. Scintillation counter and

photographic film measurements showed that no radiation above background was detected indicating that nuclear reactions did not occur.

The "ash" of the exothermic reaction is atoms having electrons of energy below the "ground state" which are predicted to form molecules. The predicted molecules were identified by lack of reactivity with oxygen, by separation from molecular deuterium by cryofiltration, and by mass spectroscopic analysis. The combustion of the gases evolved during the electrolysis of a light water  $K_2CO_3$  electrolyte ( $K^+/K^+$  electrocatalytic couple) with a nickel cathode was incomplete. The mass spectroscopic analysis (Dr. David Parees of Air Products & Chemicals, Inc.) of the  $m/e = 2$  peak of the combusted gas demonstrated that the dihydrino molecule,  $H_2(n = 1/2)$ , has a higher ionization energy than  $H_2$ .

Calorimetry of pulsed current and continuous electrolysis of aqueous potassium carbonate ( $K^+/K^+$  electrocatalytic couple) at a nickel cathode was performed in single cell dewar calorimetry cells by HydroCatalysis Power Corporation. Excess power out exceeded input power by a factor greater than 16. No excess heat was observed when the electrolyte was changed from potassium carbonate to the control sodium carbonate. The faraday efficiency was measured volumetrically to be 100%.

**19. V. Noninski, Fusion Technol., Vol. 21, 163 (1992).**

Dr. Noninski of the Laboratory for Electrochemistry of Renewed Electrode-Solution Interface (LEPGER) successfully reproduced the results of Mills and Kneizys [R. Mills and S. Kneizys, Fusion Technol. Vol. 20, 65 (1991)] as a visiting professor at Franklin and Marshall College. A significant increase in temperature with every watt input, compared with the calibration experiment ( $\approx 50^\circ C / W$  versus  $\approx 30^\circ C / W$ ), was observed during the electrolysis of potassium carbonate. This effect was not observed when sodium carbonate was electrolyzed. No trivial explanation (in terms of chemical reactions, change in heat transfer properties, etc.) of this effect were found.

18. Niedra, J., Meyers, I., Fralick, G. C., and Baldwin, R., "Replication of the Apparent Excess Heat Effect in a Light Water-Potassium Carbonate-Nickel Electrolytic Cell, NASA Technical Memorandum 107167, February, (1996). pp. 1-20.; Niedra, J., Baldwin, R., Meyers, I., NASA Presentation of Light Water Electrolytic Tests, May 15, 1994.

NASA Lewis tested a cell identical to that of Thermacore [Mills, R., Good, W., Shaubach, R., "Dihydrino Molecule Identification", Fusion Technology, Vol. 25, 103 (1994)] with the exception that it was minus the central cathode. A cell identical to the test cell with heater power only (no electrolysis) was the calibration control and the blank cell with the heater power equal to zero. The test cell was also calibrated "on the fly" by measuring the temperature relative to the blank cell at several values of heater input power of the test cell. "Replication of experiments claiming to demonstrate excess heat production in light water-Ni- $K_2CO_3$  electrolytic cells was found to produce an apparent excess heat of 11 W maximum, for 60 W electrical power into the cell. Power gains ranged from 1.06 to 1.68." The production of excess energy with a power gain of 1.68 would require 0% Faraday efficiency to account for the observed excess power.

17. Technology Insights, 6540 Lusk Boulevard, Suite C-102, San Diego, CA 92121, "HydroCatalysis Technical Assessment Prepared for PacifiCorp", August 2, 1996.

This report documents a technical assessment of a novel source of hydrogen energy advanced by HydroCatalysis Power Corporation now BlackLight Power, Inc. (BLP). The assessment was conducted as part of the due diligence performed for PacifiCorp. It was conducted by a literature search and review, site visits to BLP and collaborating organizations, and telephone interviews with others active in the general area. A description of concept is provided in Section 3. Section 4 presents an assessment of the concept background, supporting theory, laboratory prototypes, projected initial products, and economic and environmental aspects. Section 5 documents the results of telephone interviews and site visits. An overall summary and conclusions are presented in the following section.

16. **P. M. Jansson, "HydroCatalysis: A New Energy Paradigm for the 21st Century", Thesis Submitted in partial fulfillment of the requirements of the Masters of Science in Engineering Degree in the Graduate Division of Rowan University, May 1997, Thesis Advisors: Dr. J. L. Schmalzel, Dr. T. R. Chandrupatla, and Dr. A. J. Marchese, External Advisors: Dr. J. Phillips, Pennsylvania State University, Dr. R. L. Mills, BlackLight Power, Inc., W. R. Good, BlackLight Power, Inc.**

This thesis reviews the problems of worldwide energy supply, describes the current technologies that meet the energy needs of our industrial societies, summarizes the environmental impacts of those fuels and technologies and their increased use by a growing global and increasing technical economy. The work also describes and advances the technology being developed by BlackLight Power, Inc. (BLP) a scientific company located in Princeton, New Jersey. BLP's technology proports to offer commercially viable and useful heat generation via a previously unrecognized natural phenomenon - the catalytic reduction of the hydrogen atom to a lower energy state. Laboratory tests obtained as original research of this thesis as well as the review of the data of others substantiate the fact that replication of the experimental conditions which are favorable to initiating and sustaining the new energy release process will generate controllable, reproducible, sustainable and commercial meaningful heat. For example, Jansson has determined heat production associated with hydrino formation with a Calvet calorimeter which yielded exceptional results. Specifically, the results are completely consistent with Mills hydrino formation hypothesis. Approximately  $10^{-3}$  moles of hydrogen was admitted to a  $20\text{ cm}^3$  Calvet cell containing a heated platinum filament and  $KNO_3$  powder. In the three separate trials with a platinum filament hydrogen dissociator which was varied in length of 10 cm, 20 cm, and 30 cm, a mean power of 0.581, 0.818, and 1.572 watts was observed, respectively. The closed experiments were run to completion. The energy observed was 622, 369, and 747 kJ, respectively, This is equivalent to the generation of  $6.2 \times 10^8\text{ J/mole}$ ,  $3.7 \times 10^8\text{ J/mole}$ , and  $7.5 \times 10^8\text{ J/mole}$  of hydrogen, respectively, as compared to  $2.5 \times 10^5\text{ J/mole}$  of hydrogen anticipated for standard hydrogen combustion. Thus, the total heats

generated appear to be at least 1000 times too large to be explained by conventional chemistry, but the results are completely consistent with Mills model. Convincing evidence is presented to lead to the conclusion that BLP technology has tremendous potential to achieve commercialization and become an energy paradigm for the next century. The research was also conducted as part of the due diligence performed for Atlantic Energy now Conectiv.

- 15. Phillips, J., Smith, J., Kurtz, S., "Report On Calorimetric Investigations Of Gas-Phase Catalyzed Hydrino Formation" Final report for Period October-December 1996", January 1, 1997, A Confidential Report submitted to BlackLight Power, Inc. provided by BlackLight Power, Inc., Great Valley Corporate Center, 41 Great Valley Parkway, Malvern, PA 19355.**

Pennsylvania State University Chemical Engineering Department has determined heat production associated with hydrino formation with a Calvet calorimeter which yielded exceptional results. Specifically, the results are completely consistent with Mills hydrino formation hypothesis. In three separate trials, between 10 and 20 K Joules were generated at a rate of 0.5 Watts, upon admission of approximately  $10^{-3}$  moles of hydrogen to the 20  $cm^3$  Calvet cell containing a heated platinum filament and  $KNO_3$  powder. This is equivalent to the generation of  $10^7 J/mole$  of hydrogen, as compared to  $2.5 \times 10^5 J/mole$  of hydrogen anticipated for standard hydrogen combustion. Thus, the total heats generated appear to be 100 times too large to be explained by conventional chemistry, but the results are completely consistent with Mills model.

- 14. Phillips, J., Shim, H., "Additional Calorimetric Examples of Anomalous Heat from Physical Mixtures of K/Carbon and Pd/Carbon", January 1, 1996, A Confidential Report submitted to HydroCatalysis Power Corporation provided by HydroCatalysis Power Corporation, Great Valley Corporate Center, 41 Great Valley Parkway, Malvern, PA 19355.**

Pennsylvania State University Chemical Engineering Department has determined excess heat release from flowing hydrogen in the presence of ionic hydrogen spillover

catalytic material: 40% by weight potassium nitrate ( $\text{KNO}_3$ ) on graphitic carbon powder with 5% by weight 1%-Pd-on-graphitic carbon ( $\text{K}^+/\text{K}^+$  electrocatalytic couple) by the very accurate and reliable method of heat measurement, thermopile conversion of heat into an electrical output signal. Excess power and heat were observed with flowing hydrogen over the catalyst. However, no excess power was observed with flowing helium over the catalyst mixture. Rates of heat production were reproducibly observed which were higher than that expected from the conversion of all the hydrogen entering the cell to water, and the total energy observed was over four times larger than that expected if all the catalytic material in the cell were converted to the lowest energy state by "known" chemical reactions. Thus, "anomalous" heat, heat of a magnitude and duration which could not be explained by conventional chemistry, was reproducibly observed.

13. **Bradford, M. C., Phillips, J., "A Calorimetric Investigation of the Reaction of Hydrogen with Sample PSU #1", September 11, 1994, A Confidential Report submitted to HydroCatalysis Power Corporation provided by HydroCatalysis Power Corporation, Great Valley Corporate Center, 41 Great Valley Parkway, Malvern, PA 19355.**

Pennsylvania State University Chemical Engineering Department has determined excess heat release from flowing hydrogen in the presence of nickel oxide powder containing strontium niobium oxide ( $\text{Nb}^{3+}/\text{Sr}^{2+}$  electrocatalytic couple) by the very accurate and reliable method of heat measurement, thermopile conversion of heat into an electrical output signal. Excess power and heat were observed with flowing hydrogen over the catalyst which increased with increasing flow rate. However, no excess power was observed with flowing helium over the catalyst/nickel oxide mixture or flowing hydrogen over nickel oxide alone. Approximately 10 cc of nickel oxide powder containing strontium niobium oxide immediately produced 0.55 W of steady state output power at 523 K. When the gas was switched from hydrogen to helium, the power immediately dropped. The switch back to hydrogen restored the excess power

output which continued to increase until the hydrogen source cylinder emptied at about the 40,000 second time point. With no hydrogen flow the output power fell to zero.

The source of heat is assigned to the electrocatalytic, exothermic reaction whereby the electrons of hydrogen atoms are induced to undergo transitions to quantized energy levels below the conventional "ground state". These lower energy states correspond to fractional quantum numbers:  $n = 1/2, 1/3, 1/4, \dots$ . Transitions to these lower energy states are stimulated in the presence of pairs of niobium and strontium ions ( $\text{Nb}^{3+}/\text{Sr}^{2+}$  electrocatalytic couple) which provide 27.2 eV energy sinks.

**12. Jacox, M. G., Watts, K. D., "The Search for Excess Heat in the Mills Electrolytic Cell", Idaho National Engineering Laboratory, EG&G Idaho, Inc., Idaho Falls, Idaho, 83415, January 7, 1993.**

Idaho National Engineering Laboratory (INEL) operated a cell identical to that of Thermacore [Mills, R., Good, W., Shaubach, R., "Dihydrino Molecule Identification", Fusion Technology, Vol. 25, 103 (1994)] except that it was minus the central cathode and that the cell was wrapped in a one-inch layer of urethane foam insulation about the cylindrical surface. The cell was operated in a pulsed power mode. A current of 10 amperes was passed through the cell for 0.2 seconds followed by 0.8 seconds of zero current for the current cycle. The cell voltage was about 2.4 volts, for an average input power of 4.8 W. The electrolysis power average was 1.84 W, and the stirrer power was measured to be 0.3 W. Thus, the total average net input power was 2.14 W. The cell was operated at various resistance heater settings, and the temperature difference between the cell and the ambient as well as the heater power were measured. The results of the excess power as a function of cell temperature with the cell operating in the pulsed power mode at 1 Hz with a cell voltage of 2.4 volts, a peak current of 10 amperes, and a duty cycle of 20 % showed that the excess power is temperature dependent for pulsed power operation, and the maximum excess power was 18 W for an input electrolysis joule heating power of 2.14 W. Thus, the ratio of excess power to input electrolysis joule heating power was 850 %. INEL scientists constructed an electrolytic cell comprising a nickel cathode, a platinized titanium anode, and a 0.57 M

$K_2CO_3$  electrolyte. The cell design appears in Appendix 1. The cell was operated in the environmental chamber in the INEL Battery Test Laboratory at constant current, and the heat was removed by forced air convection in two cases. In the first case, the air was circulated by the environmental chamber circulatory system alone. In the second case, an additional forced air fan was directed onto the cell. The cell was equipped with a water condenser, and the water addition to the cell due to electrolysis losses was measured. The data of the forced convection heat loss calorimetry experiments during the electrolysis of a 0.57 M  $K_2CO_3$  electrolyte with the INEL cell showed that 13 W of excess power was produced. This excess power could not be attributed to recombination of the hydrogen and oxygen as indicated by the equivalence of the calculated and measured water balance.

**11. Peterson, S., H., Evaluation of Heat Production from Light Water Electrolysis Cells of HydroCatalysis Power Corporation, Report from Westinghouse STC, 1310 Beulah Road, Pittsburgh, PA, February 25, 1994.**

Westinghouse Electric Corporation reports that excess heat was observed during the electrolysis of aqueous potassium carbonate ( $K^+/K^+$  electrocatalytic couple) where the electrolysis of aqueous sodium carbonate served as the control. The data of the temperature of the cell minus the ambient temperature shows that when potassium carbonate replaced sodium carbonate in the same cell with the same input electrolysis power, the potassium experiment was twice as hot as the sodium carbonate experiment for the duration of the experiment, one month. The net faraday efficiency of gas evolution was experimentally measured to be unity by weighing the experiment to determine that the expected rate of water consumption was observed. The output power exceeded the total input power. The data was analyzed by HydroCatalysis Power Corporation [Mills, R., Analysis by HydroCatalysis Power Corporation of Westinghouse Report Entitled "Evaluation of Heat Production from Light Water Electrolysis Cells of HydroCatalysis Power Corporation, Report from Westinghouse STC", February 25, 1994].



**10. Haldeman, C. W., Savoye, G. W., Iseler, G. W., Clark, H. R., MIT Lincoln Laboratories Excess Energy Cell Final report ACC Project 174 (3), April 25, 1995.**

During the electrolysis of aqueous potassium carbonate, researchers working at MIT Lincoln Laboratories observed long duration excess power of 1-5 watts with output/input ratios over 10 in some cases with respect to the cell input power reduced by the enthalpy of the generated gas. In these cases, the output was 1.5 to 4 times the integrated volt-ampere power input. Faraday efficiency was measured volumetrically by direct water displacement.

**9. Craw-Ivanco, M. T.; Tremblay, R. P.; Boniface, H. A.; Hilborn, J. W.; "Calorimetry for a Ni/ $K_2CO_3$  Cell", Atomic Energy Canada Limited, Chemical Engineering Branch, Chalk River Laboratories, Chalk River, Ontario, June 1994.**

Atomic Energy Canada Limited, Chalk River Laboratories, report that 128 % and 138% excess heat were observed in separate experiments by flow calorimetry during the electrolysis of aqueous potassium carbonate ( $K^+/K^+$  electrocatalytic couple) in a closed cell, and that 138% was observed in an open cell.

**8. Shaubach, R. M., Gernert, N. J., "Anomalous Heat From Hydrogen in Contact with Potassium Carbonate", Thermacore Report, March 1994.**

A high temperature/high pressure/high power density industrial prototype gas cell power generator which produced 50 watts of power at 300 °C having a nickel surface area of only 300 cm<sup>2</sup> was successfully developed. A sample of the nickel tubing of the aqueous potassium carbonate permeation cell was analyzed by XPS at the Zettlemoyer Center for Surface Studies, Sinclair Laboratory, Lehigh University, Bethlehem, PA. A broad peak centered at 54.6 eV was present; whereas, the control nickel tube showed no feature. The binding energy (in vacuum) of H(n = 1/2) is 54.4 eV. Thus, the theoretical and measured binding energies for H(n = 1/2) are in excellent agreement.

No excess energy or 54.6 eV feature were observed when sodium carbonate replaced potassium carbonate.

**7. Gernert, N., Shaubach, R. M., Mills, R., Good, W., "Nascent Hydrogen: An Energy Source," Final Report prepared by Thermacore, Inc., for the Aero Propulsion and Power Directorate, Wright Laboratory, Air Force Material Command (ASC), Wright-Patterson Air Force Base, Contract Number F33615-93-C-2326, May, (1994).**

In a report prepared for the Aero Propulsion and Power Directorate, Wright Laboratory, Air Force Material Command (ASC), Wright-Patterson Air Force Base, Thermacore reports, "anomalous heat was observed from a reaction of atomic hydrogen in contact with potassium carbonate on a nickel surface. The nickel surface consisted of 500 feet of 0.0625 inch diameter tubing wrapped in a coil. The coil was inserted into a pressure vessel containing a light water solution of potassium carbonate. The tubing and solution were heated to a steady state temperature of 249 °C using an I<sup>2</sup>R heater. Hydrogen at 1100 psig was applied to the inside of the tubing. After the application of hydrogen, a 32 °C increase in temperature of the cell was measured which corresponds to 25 watts of heat. Heat production under these conditions is predicted by the theory of Mills where a new species of hydrogen is produced that has a lower energy state than normal hydrogen. ESCA analysis, done independently by Zettlemoyer Center for Surface Studies, Sinclair Laboratory, Lehigh University, Bethlehem, PA, have found the predicted 55 eV signature of this new species of hydrogen."

**6. Wiesmann, H., Brookhaven National Laboratory, Department of Applied Science, Letter to Dr. Walter Polansky of the Department of Energy Regarding Excess Energy Verification at Brookhaven National Laboratory, October 16, 1991.**

Calorimetry of continuous electrolysis of aqueous potassium carbonate ( $K^+/K^+$  electrocatalytic couple) at a nickel cathode was performed in single cell dewar calorimetry cell by Noninski at Brookhaven National Laboratory. Dr. Weismann

observed the experiment and reported the results to Dr. Walter Polansky of the U. S. Department of Energy. Dr. Weismann reports, "The claim is as follows. The temperature rise in the dewar is greater in the case of electrolysis as compared to using a resistor, even though the power dissipated is equal in both cases. According to Dr. Mills' theory, this apparent "excess power" is due to the fact that the electron in a hydrogen atom can "decay" to stable subinterger quantum levels. Dr. Noninski demonstrated this thermal effect at BNL." The observed rise in temperature for a given input power was twice as high comparing electrolysis versus heater power.

**5. Nesterov, S. B., Kryukov, A. P., Moscow Power Engineering Institute Affidavit, February, 26,1993.**

The Moscow Power Engineering Institute experiments showed 0.75 watts of heat output with only 0.3 watts of total power input (power = VI) during the electrolysis of an aqueous potassium carbonate electrolyte with a nickel foil cathode and a platinized titanium anode. Excess power over the total input on the order of 0.45 watts was produced reliably and continuously over a period of three months. Evaluation of the electrolyte after three months of operation showed no significant change in its density or molar concentration. The cell was disassembled and inspected after over one month of operation at 0.1 amperes. This inspection showed no visible signs of a reaction between the electrodes and the electrolyte. The cell was re-assembled and operated as before. Excess energy was produced for the three month duration of the experiment. Scintillation counter measurements showed no signs of radiation external to the cell.

**4. Miller, A., Simmons, G., Lehigh X-Ray Photoelectron Spectroscopy Report, Zettlemoyer Center for Surface Studies, Sinclair Laboratory, Lehigh University Bethlehem, PA, November 1993.**

Samples of the nickel cathodes of aqueous potassium carbonate electrolytic cells and aqueous sodium carbonate electrolytic cells were analyzed by XPS by Miller and Simmons of the Zettlemoyer Center for Surface Studies, Sinclair Laboratory, Lehigh University, Bethlehem, PA. A broad peak centered at 54.6 eV was present only in the cases of the potassium carbonate cells. The binding energy (in vacuum) of  $H(n = 1/2)$  is

54.4 eV. Thus, the theoretical and measured binding energies for  $H(n = 1/2)$  are in excellent agreement. Lehigh University has conducted an extensive investigation of the cathodes from heat producing as well as those from control cells. Miller concludes that "I was unable to find any other elements on the surface that cause the feature. The persistent appearance of a spectral feature near the predicted binding energy for many of the electrodes used with a K electrolyte is an encouraging piece of evidence for the existence of the reduced energy state hydrogen".

**3. Jacox, M. G., Watts, K. D., "INEL XPS Report", Idaho National Engineering Laboratory, EG&G Idaho, Inc., Idaho Falls, Idaho, 83415, November 1993.**

The Lehigh XPS results of a broad peak centered at 54.6 eV present only in the cases of the potassium carbonate cells [Miller, A., Simmons, G., Lehigh X-Ray Photoelectron Spectroscopy Report, Zettlemoyer Center for Surface Studies, Sinclair Laboratory, Lehigh University, Bethlehem, PA, November 1993] were confirmed at Idaho National Engineering Laboratory (INEL). Samples which demonstrated the feature as well as control electrodes were tested for the presence of trace amounts of impurities of the elements iron and lithium at a sensitivity level of greater than 1000 times that of XPS. TOF-SIMS (Time of Flight-Secondary Ion Mass Spectroscopy) and XPS analysis of the nickel surface was performed by Charles Evans & Associates, Sunnyvale, CA [Lee, Jang-Jung, Charles Evans & Associates Time-Of-Flight Secondary Ion Mass Spectroscopy (TOF-SIMS) Surface Analysis Report, CE&A Number 40150, March 18, 1994]. The 54.6 eV feature was also observed by Charles Evans & Associates in the case of cathodes of potassium carbonate electrolytic cells [Craig, A., Y., Charles Evans & Associates XPS/ESCA Results, CE&A Number 44545, November 3, 1994]. Iron and lithium were the only remaining atoms which were in question by Lehigh University and INEL as the source of the 54.6 eV XPS peak. The Charles Evans TOF-SIMS results demonstrate that iron and lithium were not the source of this peak.

**2. Lee, Jang-Jung, Charles Evans & Associates Time-Of-Flight Secondary Ion Mass Spectroscopy (TOF-SIMS) Surface Analysis Report, CE&A Number 40150, March 18, 1994.**

The Lehigh XPS results of a broad peak centered at 54.6 eV present only in the cases of the potassium carbonate cells [Miller, A., Simmons, G., Lehigh X-Ray Photoelectron Spectroscopy Report, Zettlemoyer Center for Surface Studies, Sinclair Laboratory, Lehigh University, Bethlehem, PA, November 1993] were confirmed at Idaho National Engineering Laboratory (INEL) [Jacox, M. G., Watts, K. D., "INEL XPS Report", Idaho National Engineering Laboratory, EG&G Idaho, Inc., Idaho Falls, Idaho, 83415, November 1993]. Samples which demonstrated the feature as well as control electrodes were tested for the presence of trace amounts of impurities of the elements iron and lithium at a sensitivity level of greater than 1000 times that of XPS. TOF-SIMS (Time of Flight-Secondary Ion Mass Spectroscopy) and XPS analysis of the nickel surface was performed by Charles Evans & Associates, Sunnyvale, CA. The 54.6 eV feature was also observed by Charles Evans & Associates in the case of cathodes of potassium carbonate electrolytic cells [Jacox, M. G., Watts, K. D., "INEL XPS Report", Idaho National Engineering Laboratory, EG&G Idaho, Inc., Idaho Falls, Idaho, 83415, November 1993]. Iron and lithium were the only remaining atoms which were in question by Lehigh University and INEL as the source of the 54.6 eV XPS peak. The Charles Evans TOF-SIMS results demonstrate that iron and lithium were not the source of this peak.

**1. Craig, A., Y., Charles Evans & Associates XPS/ESCA Results, CE&A Number 44545, November 3, 1994.**

The Lehigh XPS results of a broad peak centered at 54.6 eV present only in the cases of the potassium carbonate cells [Miller, A., Simmons, G., Lehigh X-Ray Photoelectron Spectroscopy Report, Zettlemoyer Center for Surface Studies, Sinclair Laboratory, Lehigh University, Bethlehem, PA, November 1993] were confirmed at Idaho National Engineering Laboratory (INEL) [Jacox, M. G., Watts, K. D., "INEL XPS Report", Idaho National Engineering Laboratory, EG&G Idaho, Inc., Idaho Falls, Idaho, 83415, November 1993]. Samples which demonstrated the feature as well as control electrodes were tested for the presence of trace amounts of impurities of the elements iron and lithium at a sensitivity level of greater than 1000 times that of XPS. TOF-SIMS (Time of Flight-Secondary Ion Mass Spectroscopy) and XPS analysis of the nickel surface was performed by Charles Evans & Associates, Sunnyvale, CA [Lee, Jang-

Jung, Charles Evans & Associates Time-Of-Flight Secondary Ion Mass Spectroscopy (TOF-SIMS) Surface Analysis Report, CE&A Number 40150, March 18, 1994]. The 54.6 eV feature was also observed by Charles Evans & Associates in the case of cathodes of potassium carbonate electrolytic cells. Iron and lithium were the only remaining atoms which were in question by Lehigh University and INEL as the source of the 54.6 eV XPS peak. The Charles Evans TOF-SIMS results demonstrate that iron and lithium were not the source of this peak.

Given Applicant's full compliance with the new standards imposed by Specialist McGinty during the February 11, 2003 Interview, which required independent validation of the experimental evidence of record, Applicant is entitled to have this evidence accepted as reliable and to have this and other BlackLight applications issue as patents.

**Examiner Langel's Reaffirmation of the Utility and Operability of Applicant's Novel Hydrogen Technology and His Subsequent Resignation From Examining BlackLight Cases "For Moral and Ethical Reasons"**

Pursuant to the representations and agreements made during the February 11 Interview (reprinted below), Applicant followed up by submitting much of the independently generated scientific evidence cited above in two pending BlackLight applications and arranging an Interview with Examiner Langel, who was assigned to those cases and supposedly had authority to issue them. [U.S. Serial Nos. 09/110,678 ('678 application) and 09/362,693 ('693 application).] The express purpose of the Interview, held on April 14, 2003, was to review those two applications on a claim-by-claim basis to ensure that the scientific data presented adequately supported the scope of the claims. Examiner Langel expressed once again his view that the claims of the two applications were adequately supported by the data and, therefore, those claims were allowable.

A detailed account of the discussions Applicant's counsel, Jeffrey Melcher and Jeffrey Simenauer, had with Examiner Langel during the April 14, 2003 Interview, and with Examiner Langel and his supervisor, SPE Stanley Silverman, during follow-up telephone Interviews were documented in Supplemental Responses filed in the '678 and '693 applications, comments from which are reproduced below. Based on the

shocking revelations divulged during these discussions, Applicant must once again protest in the strongest terms possible the manner in which an anonymous group of PTO officials (*i.e.*, the "Secret Committee") has mishandled the examination of BlackLight's patent applications relating to Applicant's novel hydrogen technology.

Counsel was particularly distressed to learn that when Examiner Langel met with Supervisor Silverman to advocate allowing the '678 and '693 applications to issue as patents, his supervisor informed him that "allowance is not an option." Despite the Examiner's careful study of the overwhelming weight of the scientific data supporting allowance, his supervisor further instructed him to "make it appear as if you have authority [to allow the applications] and that you are in favor of full rejection."

Understandably, Examiner Langel felt uneasy having been asked to make representations on the record that were not true. He explained that, "for moral and ethical reasons," he had no choice but to allow himself to be removed from examining all assigned BlackLight applications. Although Supervisor Silverman admitted that the removal decision had been made "partially by [him] and partially by others," he would not reveal who those "others" were.

Applicant strongly objects to Examiner Langel's removal under these egregious circumstances and demands that the PTO reinstate him immediately and allow BlackLight's applications to issue. The Secret Committee is duty bound to honor the representations and agreements made by Quality Assurance Specialist Douglas McGinty during the February 11, 2003 Interview, declaring that:

- (1) Examiner Langel and the other Examiners of record have "full authority" to review the scientific data supporting lower energy states of hydrogen generated and furnished by independent third parties and, based on that review, to issue patents as deemed appropriate;
- (2) Applicant should confer with the Examiners, either by telephone or in person, to review each assigned application on a claim-by-claim basis to ensure that the scientific data presented adequately supports the scope of the claims; and
- (3) for those claims determined to be adequately supported by the data, a patent will issue; for any claims deemed to be inadequately supported, Applicant reserves the right to continue seeking that broader claim coverage in

subsequent proceedings. [See March 6, 2003 Response filed in the '678 application.]

It was precisely because of the many prior abuses that led to this short-lived "breakthrough" that U.S. Congressman David Wu sent his Senior Legislative Assistant, Ted Liu, to attend the February 11 Interview. Prior to the Interview, a senior PTO official alleged to Mr. Liu that there was no "Secret Committee." At the Interview, Mr. Liu witnessed not only Specialist McGinty's representation that Examiner Langel had the authority to allow BlackLight's applications, but the Examiner's unequivocal statement that the applications were, in fact, allowable and that he was prepared to issue Applicant his patents right then and there. [See *supra* and Attachment P]

Despite those representations, an anonymous group of individuals has now declared that allowance is not even an option in BlackLight's cases. Worse yet, this Secret Committee sought to leave the false impression on the record that Examiner Langel—and perhaps other Examiners of record—had the authority to allow BlackLight's applications, and that he favored the rejection of claims over allowance.

In view of this unfortunate incident, which is described in greater detail below, Applicant is entitled to a complete accounting of events leading to Examiner Langel's removal, including identification of all persons involved in making that decision.

#### **Detailed Account of the April 14, 2003 Interview and Subsequent Discussions**

As stated above, the express purpose of the April 14, 2003 Interview was to review the scientific data generated and furnished by independent third parties identified in the March 6, 2003 Response that was filed in the '678 and '693 applications in support of the lower energy states of hydrogen and to ensure that the data adequately supported the scope of the claims to secure their allowance.

Applicant had no reason to suspect that this new approach, as agreed to during the prior February 11, 2003 Interview, was about to be completely scrapped. During the subsequent April 14, 2003 Interview, Examiner Langel once again reaffirmed his long-held opinion that the scientific data submitted by Applicant confirmed the operability of his novel hydrogen technology, thus warranting patent protection. The Examiner's comments made clear that, prior to the interview, he had extensively reviewed



Applicant's data, as well as the summary statements characterizing that data, appearing in the prior Responses filed in the '678 and '693 applications. Based on that review, Examiner Langel expressed several times during the Interview his willingness to allow those cases. Those views were confirmed by the Examiner in his interview summary, which stated that "[t]he participants presented data establishing the existence of lower-energy hydrogen." [See April 14, 2003 Interview Summary Form filed in the '678 and '693 applications (Attachment F).]

Examiner Langel, however, refrained from indicating allowance of any specific claims for two stated reasons. First, a few items of submitted data summarized in the March 6 Response inexplicably could not be located in the PTO files. The Examiner wanted time to confirm the data had been made of record, as well as Applicant's description of its relevance. Second, despite Specialist McGinty's representation at the February 11 Interview that Examiner Langel had full authority to review the data and to issue claims in the two interviewed cases, the Examiner explained that he needed to advise him and Supervisor Silverman of his intention to do so.

Examiner Langel then recalled a recent visit to his office by Group Director Jacqueline Stone informing him—again, contrary to what Applicant was told at the February 11, 2003 Interview—that he did not have authority to issue Notices of Allowance, or to otherwise give indications of allowance, in any BlackLight applications. Director Stone instructed Examiner Langel that he would need Specialist McGinty's permission before doing so.

Examiner Langel did, however, note that Supervisor Silverman and Specialist McGinty had agreed before the February 11 Interview to allow claims if Applicant could show that his submitted scientific data was generated by independent third parties. The Examiner reassured counsel that he would present to his superiors the scientific data discussed at the April 14 Interview with a recommendation of allowance consistent with his past views.

Applicant's counsel agreed that it made sense to allow time for Examiner Langel to discuss the case with his superiors and for counsel to resubmit the few missing items of scientific data, whereupon arrangement was made to continue with the personal Interview on the following day, April 15<sup>th</sup>. That morning, however, counsel received a

distressing telephone message from Examiner Langel informing him that the Interview had been canceled. The Examiner stated that Supervisor Silverman had removed him from the subject cases and that he was no longer assigned to any BlackLight applications.

Applicant's counsel immediately telephoned Examiner Langel for a further explanation of what had happened. The Examiner confirmed his removal following the meeting he had arranged with Supervisor Silverman to discuss the scientific data that had been the subject of the previous day's Interview and to advocate allowance of the claims in the two subject applications. Examiner Langel informed counsel that his supervisor refused to even look at the data and, in response to his recommendation of allowance, Supervisor Silverman told him "allowance is not an option." According to Examiner Langel he was then told: "Make it appear as if you have authority [to allow the applications] and that you are in favor of full rejection."

Examiner Langel explained that, regrettably, he had no choice but to resign from further examination of BlackLight's applications. According to the Examiner, Supervisor Silverman gave him the option of staying on, "but not really—I could not go on like this." He explained that "for moral and ethical reasons," he could no longer continue to examine his assigned cases.

Alarmed by this sudden turn of events, counsel called Supervisor Silverman the following day, April 16<sup>th</sup>, to object to Examiner Langel's removal and to seek his reinstatement. Supervisor Silverman confirmed that Examiner Langel would no longer be examining Blacklight's patent applications and that all of its cases were in the process of being consolidated and transferred to a new Examiner.

Counsel kindly requested that Supervisor Silverman explain why those cases were being transferred and who made that decision. He initially refused to discuss the matter, saying only that, "I am not going to be put on the stand and cross examined on this." Upon further prodding, Supervisor Silverman volunteered that "the decision was made partially by me and partially by others." He refused, however, to be more specific when asked to identify the "others" involved in the decision, stating "I am not going to discuss that. You can say that it was *my* decision."

Counsel then informed Supervisor Silverman of Applicant's intention to file an objection to Examiner Langel's removal and to the consolidation and transfer of BlackLight's applications to a new Examiner. Counsel explained that Applicant had expended enormous amounts of time and money over a period of many years prosecuting BlackLight's patent applications before Examiner Langel and getting him up to speed on the claimed technology and the extensive scientific data confirming its operation. Counsel argued that it was unfair now to remove Examiner Langel and transfer all of BlackLight's cases to a new Examiner just to begin the process all over again. Supervisor Silverman would hear none of it, again stating, "I'm not going to discuss it."

Applicant's counsel made one last attempt to learn the identity of the other PTO officials responsible for taking that drastic action and their reasons for doing so. Supervisor Silverman again refused this request for information, snapping at counsel, "You figure it out!" Counsel then asked the Supervisor whom they might talk to so they could "figure it out" as he put it. Supervisor Silverman advised counsel, "Talk to whomever you want," but when asked whom specifically he had in mind, he again retorted, "I don't like to be cross-examined."<sup>117</sup>

At the end of the conversation, Supervisor Silverman attempted to justify the PTO's extreme actions by claiming that it was in the "best interest" to transfer the applications. But, when asked by counsel whose best interest was being served by the transfer, he refused to answer. Instead, Supervisor Silverman offered a stunning revelation that Applicant's novel hydrogen technology was "beyond Examiner Langel's technical expertise" and that all of the BlackLight cases would be consolidated and transferred to another examiner with "more technical expertise." He would not elaborate on who this new, more highly qualified Examiner might be.<sup>118</sup>

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<sup>117</sup> Counsel has taken steps "to figure it out" and expressly reserves the right to further supplement the objections raised herein as additional facts come to light. (Attachment R)

<sup>118</sup> Supervisor Silverman's statement that all of BlackLight's applications were being consolidated and transferred to a single, more qualified Examiner turned out to be untrue. In fact, Applicant's cases remained spread between four named Examiners, not one: Examiners Kalafut, Tsang-Foster, Wells, and Wayner (since retired). While it may be true that management of all of these cases were taken over by a newly identified Examiner, Dr. Bernard Eng-Kie Souw, whose views now form the primary basis for the Committee's rejections issued in the name of those other Examiners, is far less experienced in patent

Needless to say, at no time during the five years Applicant had been prosecuting his patent applications before Examiner Langel—who has over thirty years of Patent Office experience—did his technical expertise ever come into question. Indeed, throughout the lengthy prosecution of these cases, counsel has been impressed with the Examiner's in-depth knowledge of chemistry and physics, as well as other scientific principles, underlying Applicant's novel hydrogen technology. That Supervisor Silverman would raise Examiner Langel's technical competence as an issue at such a late stage of that prosecution only heightens Applicant's suspicions as to the real motivation for removing Examiner Langel.

Immediately following the conversation with Supervisor Silverman, counsel telephoned Examiner Langel one last time to apprise him of the situation and to thank him for his many years of service in examining BlackLight's applications. Examiner Langel expressed regret over his removal from those cases and confirmed that he had "learned a lot about [BlackLight's] technology." The Examiner also expressed surprise that his expertise was now being called into question.

Examiner Langel shared counsel's exasperation over the situation. Counsel asked him if he knew of any other instances in which a PTO Examiner had been instructed to represent that he had authority to allow an application when, in fact, he had no such authority, and that he favored rejecting claims when he actually wanted to allow them. The Examiner's exact words were: "I've never seen anything like it."

Frankly, neither has Applicant's counsel and, in view of these unique circumstances, Applicant must once again strenuously object to the abusive treatment to which his applications have been subjected.

**Other Questionable Actions by the Secret Committee Further Demonstrate Its Unwillingness to Grant Applicant a Fair Hearing**

As discussed above, Examiner Langel initially advised Applicant that a Committee of PTO officials he could not identify was responsible for authoring the Office

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matters than his predecessors. Furthermore, as discussed in detail below, Dr. Souw's views are not only technically inaccurate, but are also fatally tainted due to a genuine conflict of interest based on his involvement in questionable outside business activities while examining Applicant's cases.

Actions he was instructed to sign as the named Examiner of record in the cases assigned to him. Examiner Kalafut later confirmed that he was also merely the named Examiner of record and that he too did not author the Office Actions issued by the Committee in his cases. Given that these two senior PTO employees, having over 50 years of experience between them, were being used as Examiners-in-name-only by this "Secret Committee," Applicant found it odd that another Examiner, William Wayner, would make the following statement in another BlackLight application to which he was assigned:

For the record this Examiner makes it clear that there is no committee in charge of this application, that all of the office actions in this case have been done by me alone an[d] that I have never been told that I could not allow this application. [See April 26, 2004 Office Action issued in U.S. App'n Ser. No. 09/181,180 ('180 application).]

Applicant's initial doubt regarding the veracity of that statement was confirmed in an initial telephone conversation held on October 5, 2004, between Applicant's counsel, Jeffrey A. Simenauer, and Mr. Wayner, following his retirement from the PTO as an Examiner, and in a follow-up telephone conversation held on October 25, 2004.

Sometime in mid-September, Mr. Wayner had called and left Mr. Simenauer, a former PTO colleague, a telephone message informing him of his retirement and his desire to secure patent search work to do in his spare time. Mr. Simenauer returned Mr. Wayner's call and spoke to him on October 5<sup>th</sup> about doing some possible work, after which the conversation turned to Mr. Wayner's involvement in the examination of the '180 application. The substance of that conversation was confirmed in an e-mail Mr. Simenauer sent to Mr. Wayner on October 15, 2004. [See Tab S]

During the October 5 phone conversation, Mr. Wayner was very candid in complimenting Dr. Mills for the way he had handled himself during the February 11, 2003 Interview, commenting that "Mills is one hell of a persuasive man" and that "he came across as very convincing" at the Interview. In his October 15 e-mail, Mr. Simenauer thanked Mr. Wayner for those comments, which he indicated had been forwarded to Dr. Mills.

Mr. Simenauer then told Mr. Wayner that, while he disagreed with the positions Mr. Wayner had expressed during the Interview, including his skepticism regarding the

operability of Mills' invention, he still respected those views. Mr. Simenauer, however, made clear to Mr. Wayner that what really upset him were the questionable actions that the PTO has taken against BlackLight prejudicing its patent rights. In that regard, Mr. Simenauer recalled Examiner Langel's resignation from examining Applicant's cases "for moral and ethical reasons" due to instructions he had been given to misrepresent the record to promote the PTO's "allowance is not an option" policy. Specifically, Mr. Simenauer reminded Mr. Wayner of how Examiner Langel was told to say that he was against allowing Dr. Mills' applications, when in fact he favored doing so, and that he had authority to issue Dr. Mills his patents, when he clearly had no such authority.

Mr. Wayner confirmed this official position of the Patent Office "not to allow [Dr. Mills'] cases" and admitted that he could not tell Mr. Simenauer this while he was still working at the PTO. As stated in his October 15 e-mail, Mr. Simenauer appreciated Mr. Wayner's honesty and understood why he had previously remained silent.

As further stated in his e-mail, Mr. Simenauer had first decided not to ask Mr. Wayner to go "on the record" with this information, given that Applicant already had a record of Examiner Langel's statements that the PTO had in place an "allowance is not an option" policy and that he was asked to misrepresent his authority to issue patents in BlackLight's cases. Mr. Simenauer mentioned, however, that a problem had arisen that had caused him to reconsider that decision. Mr. Simenauer explained that his review of Mr. Wayner's last Office Action in the '180 application had turned up the above-quoted statement that "I [Wayner] have never been told that I could not allow this application," which contradicted what Mr. Wayner had told Mr. Simenauer previously on the phone regarding his lack of authority to allow it.

In view of Examiner Langel's admission that he was told by senior PTO officials that he did not have authority to allow BlackLight's applications under any circumstances, but that he should give the false impression that he did have such authority, Mr. Simenauer expressed concern in his October 15 e-mail that the PTO might have put Mr. Wayner in a similar uncomfortable position when he stated that he had authority to allow the '180 application. Mr. Simenauer then informed Mr. Wayner that, as BlackLight's patent counsel, he was obligated to press the matter. Knowing Mr. Wayner to be "a man of utmost integrity," Mr. Simenauer further stated that he felt

comfortable requesting "[his] assistance in simply uncovering the true facts regarding the PTO's policy decisions that have been made against BlackLight."

In response to Mr. Simenauer's e-mail, Mr. Wayner called him on October 25, 2004 and left a message, which call was then returned the same day by Mr. Simenauer and the undersigned co-counsel, Jeffrey S. Melcher. At no time during this subsequent telephone conversation did Mr. Wayner deny the substance of his earlier October 5<sup>th</sup> conversation with Mr. Simenauer as reflected in the October 15<sup>th</sup> e-mail. Rather, Mr. Wayner started the conversation by saying, "You should know better. I don't want to get involved in this anymore." Mr. Wayner further stated that he did not want to talk any further about the subjects discussed in Mr. Simenauer's confirmation e-mail and that, in his words, "you will have to go by what's on the record," making clear to Applicant's counsel that he would not accept their request for assistance regarding the truth of his statements in the present Office Action.

Mr. Wayner also stated that while he wanted to continue his personal friendship with Mr. Simenauer, he also wanted "to stay out of the [BlackLight] case." Mr. Simenauer apologized for troubling him with this matter and informed Mr. Wayner that he may not be able to remain out of the BlackLight case against the PTO if it were to go to trial following an appeal to the PTO Board. Somewhat nervously, Wayner responded by stating that "it is a very dangerous situation" for him, and again made clear that he did not want to talk about it any further. Mr. Simenauer told Mr. Wayner that he understood and sympathized with his situation and that he did not want to put him in the uncomfortable position of having to say anything more on the subject.

Mr. Wayner then stated that he had changed his mind about seeking search work from Mr. Simenauer as he had initially requested since, in his words, "I don't want it to look like a *quid pro quo*." Again, Mr. Simenauer expressed his understanding of the situation Mr. Wayner found himself in and that ended the conversation.

In light of these unfortunate developments, Applicant must demand that the PTO Committee cease and desist from any further attempts to cloud the administrative record in his cases so as to make it appear that the "Examiners-in-name-only" are solely responsible for its actions. As with the situation involving instructions that led to Examiner Langel's resignation "for moral and ethical reasons," Applicant further

demands that the Committee provide a complete account of the facts and circumstances that led to the questionable statements appearing in the Office Action signed by Examiner Wayner in the '180 application prior to his retirement.

**The Secret Committee Has Demonstrated Extreme Bias In Its Handling of BlackLight's Patent Applications Due to Genuine Conflicts of Interest**

Following Examiner Langel's unfortunate resignation from examining BlackLight's applications, the Committee consolidated those cases under a new, supposedly more experienced Examiner. Consequently, the Committee's rejections of Applicant's claims in this and other pending BlackLight applications based on inoperability due to the alleged non-existence of lower-energy hydrogen now rely heavily, if not almost exclusively, on the views expressed by that new Examiner, Dr. Bernard Eng-Kie Souw. Indeed, Dr. Souw is known to have prepared on behalf of the Committee over one hundred pages of arguments, which in one form or another, have now found their way into all of BlackLight's cases in support of the Committee's rejections.

As explained in more detail below, Dr. Souw's involvement in shaping the Committee's views in this case raises serious questions regarding the biased nature of those views due to his genuine conflicts of interest. In fact, Dr. Souw's biased views have so tainted the present rejections that the Committee must withdraw those rejections and allow the pending claims to issue.

**The Committee's Refusal To Disclose the Details of Dr. Souw's Employment History Raises Serious Questions Of Whether It Is Capable Of Fairly Examining Applicant's Cases**

The Committee's appointment of Dr. Souw came at a critical juncture in the examination of Applicant's pending cases. As explained above, in April 2003, Examiner Langel, one of the two original examiners assigned to these cases, had resigned from his examining duties "for moral and ethical reasons." Examiner Langel's abrupt resignation came after being instructed to misrepresent that he favored denying Applicant his patents when the record showed he wanted to allow those patents to issue, and that he had authority to grant such allowance when, in fact, he was told that "allowance is not an option."



To justify Examiner Langel's resignation after the fact, the PTO informed Applicant that his cases were being transferred and consolidated under the direction of an Examiner with "more technical experience." A few short weeks later, Dr. Souw began making appearances in Applicant's cases even though he had only a few years of experience as an Associate Examiner, as compared to Primary Examiner Langel, who had over thirty years of PTO examining experience. [See Appendix attached to the Committee's May 7, 2003 Office Action issued in U.S. App'n Ser. No. 09/513,768 ('768 application).] Examiner Langel also demonstrated a much better technical understanding of Applicant's technology judging by the error-riddled arguments found throughout Dr. Souw's Appendices.

Applicant was naturally suspicious of Dr. Souw's prominent membership on the Committee given the prosecution history of BlackLight's pending applications already discussed. As further detailed below, this new appointment prompted Applicant to raise initial questions regarding Dr. Souw's employment history after he first showed bias in examining these cases by citing his own technical papers against Applicant. Rather than answer those questions, the Committee stonewalled once again, defensively arguing that:

[T]he employment history of examiners, including those acting in a consulting role, is irrelevant to the examination thereof, except where there is a genuine conflict of interest. [See 4/14/04 Office Action in U.S. App'n Ser. No. 09/008,947 at p. 5.]

Dr. Souw has been similarly uncooperative, although he did provide some limited information regarding his employment history by citing to his background in microwave plasmas:

Since the cited Examiner's papers cannot possibly have been criticized by Applicant, citing his own publication(s) does not make the Examiner's view "biased", as alleged by Applicant. In the contrary, such technical papers provide a solid evidence that the Examiner is in possession of sufficient background for evaluating Applicant's claimed invention. In this regard, the Examiner can add a further evidence of strong background in microwave plasmas generated in a resonance cavity similar to those use by Applicant, not only in theory, but also hands-on in its design, construction and routine operation, as well as in its spectroscopy, both low and high resolutions [1]. [Souw Appendix at p. 4 attached to the March 29, 2004 Office Action filed in the '768 application.]

The reference [1] cited by the Examiner as evidence of his supposed "strong background in microwave plasmas" is an article published in March 1987: Souw, Eng-Kie, Plasma density measurement in an imperfect microwave cavity, J. Appl. Phys. 61 (5), 1 March 1987.<sup>119</sup>

The Committee's defensive remarks regarding the irrelevancy of Dr. Souw's employment history, when contrasted with the Examiner's own remarks extolling the relevancy of that history, are truly astounding. The Committee's statements are even more remarkable, however, when considered in the context of additional information that has come to Applicant's attention concerning Dr. Souw's engagement in questionable business activities that began before, and continued after, all of BlackLight's pending applications were consolidated and assigned to Dr. Souw.

This information came to light only after Applicant, unable to get straight answers from the Committee regarding Dr. Souw's background, undertook his own investigation into the Examiner's employment history. That investigation uncovered a much more recent 2003 article authored by Dr. Souw, in which he admits that he worked as the lead scientist for a consulting company that he co-founded, BMS Enterprise (BMS) in Herndon, Virginia, at the same time he worked for the PTO examining BlackLight's applications. Dr. Souw also admits in the article that his business activities for BMS includes work in at least two technical areas, which are identical to, and therefore compete with, those practiced by BlackLight.<sup>120</sup> Given that one of those technical areas is microwave plasmas, it is highly suspicious that the Committee and Dr. Souw withheld this highly relevant, up-to-date work experience in support of his supposedly "strong background in microwave plasmas," citing instead an outdated, 17-year-old article in

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<sup>119</sup> Ironically, Dr. Souw attempts to establish his credibility in evaluating Applicant's novel hydrogen technology by citing his peer-reviewed article published in the *Journal of Applied Physics*, yet argues that Applicant's article published in that very same journal does not establish similar credibility. In taking those contradictory positions, the Committee reveals yet another double standard that only reinforces its bias against Applicant.

<sup>120</sup> Incredibly, since the time Applicant first brought this information to the PTO's attention in his October 14, 2004 Response filed in U.S. Patent App'n Ser. No. 09/008,947, and subsequently in other pending cases, not only has the PTO failed to seriously address the issues raised, but it continues to cite and rely on Dr. Souw's biased arguments. These actions leave Applicant no choice but to seek other avenues for relief from this unfair treatment.

support. The reason the Committee and Dr. Souw withheld this important information is obvious: if correct—and Applicant has no reason to doubt this given that the source is Dr. Souw himself—there would appear to be multiple violations of the PTO's own ethics rules. At the very least, the ability of the Committee under the direction of Dr. Souw to fairly evaluate the merits of Applicant's novel hydrogen technology has once again been called into serious question.

The above-mentioned article was published in *Optical Engineering* on November 2, 2003. [Souw, Bernard Eng-Kie, Coherent telescope array with self-homodyne interferometric detection for optical communications, *Opt. Eng.* 42(1) 3139-3157 (November 2003) (Tab S).] As the author of that article, Dr. Souw's name prominently appears on first page (p. 3139), identifying his association with BMS as follows:

Bernard Eng-Kie Souw  
BMS Enterprise  
P.O. Box 5524  
Herndon, Virginia 20172-5524  
E-mail: souw1@juno.com

The last page of the article (p. 3157) is particularly informative as it summarizes Dr. Souw's technical background and work experience establishing his connection to BMS as its co-founder and lead scientist. Applicant reproduces the following relevant portions of that background summary, which notably describes BMS as providing consulting services in two main technical areas, microwave plasma devices and CVD diamond synthesis and applications, that are identical with those practiced by BlackLight:

In 1985, [Bernard Eng-Kie Souw] joined Brookhaven National Laboratory (BNL) in Long Island, New York as staff member in a Star Wars project. He was awarded a Department of Energy research grant in 1993 and became Principal Investigator in a research and development project on a novel, solar blind and fieldable alpha-beta-gamma radiation detector in collaboration with Northrop-Grumman and New Jersey Institute of Technology. **About the same time he cofounded BMS Enterprise, a multi-interdisciplinary consulting company providing services mainly in microwave plasma devices and CVD diamond synthesis and applications. He left BNL in 1997 and became a patent examiner with the US Patent and Trademark Office in Arlington, Virginia until 2000, when he joined ITT Industries in Reston, Virginia as a scientist and engineering specialist in optical communications. He left ITT in**

**2002 to dedicate more time as lead scientist with BMS Enterprise.**  
[Emphasis added.]

As the Committee is no doubt aware, Applicant's novel hydrogen technology has many potential commercial applications, including the aforementioned microwave plasma devices and CVD diamond synthesis. Indeed, Applicant presently has on file two copending applications directed to these specific art areas. [See U.S. App'n Ser. No. 10/469,913, filed March 7, 2002; and PCT/US/13412, filed May 1, 2002.] Applicant has serious concerns that these and other competitive technologies that BMS and BlackLight engage in may have affected, and will continue to affect, the manner in which the Committee has examined and rejected his applications.

This situation is particularly disturbing in light of PTO ethics rules that prohibit patent examiners from engaging in outside business activities that conflict with their assigned administrative duties. [See *Summary of Ethics Rules* for the U.S. Patent and Trademark Office published by the U.S. Department of Commerce, Office of the General Counsel, Ethics Division (2000) (Tab S)] As the introductory paragraph to these ethical rules makes clear, the issue involved here is one of public trust:

**PUBLIC SERVICE IS A PUBLIC TRUST**

As an employee of the U.S. Patent and Trademark Office you have been placed in a position of trust and are held to a high standard of ethical conduct. This handout contains a summary of the rules set forth in conflict of interest statutes and the *Standards of Ethical Conduct for Employees of the Executive Branch*. [Ethics Rules at p. 1 (Tab S)]

To hold examiners to this high standard of ethical conduct, the rules prohibit activities that would create a financial conflict of interest:

**Financial Conflicts of Interest.** You may not, as part of your official Government duties, participate in any matter that will have a direct and predictable effect on your personal financial interest, unless an exemption applies. This rule applies to matters involving specific parties in which you have a financial interest and to broad policy matters that affect many entities, including ones in which you have an interest (such as a policy affecting an entire industry sector if you have stock holdings in one of the companies in the industry sector). [Ethics Rules at p. 2 (Tab S) (emphasis in original).]

Other PTO ethic rules govern outside employment activities:

**General Rule on Outside Activities.** You may not engage in outside employment or any other personal activity that conflicts with your Department position, including employment that requires disqualification from a significant part of your Government duties or an activity that creates an appearance of using your public office for private gain. You must disqualify yourself from participating in a matter as a Department employee which may affect the financial interests of an outside employer or in which an outside employer, or an organization in which you are an active participant, is a party or is representing a party. . . . [Ethics Rules at p. 5 (Tab S) (emphasis in original).]

These restrictions against financial conflicts of interest and outside employment activities are further amplified with specific reference to patent examiners in the following rules:

#### **Financial conflicts of Interest**

Conflicts of Interests regarding Patent Examiners If you are a patent examiner, you may not participate in the review of any patent if you have a financial interest in a company that may be affected by the issuance or denial of the patent (unless your interest is in publicly-traded stock valued at \$5,000 or less in all affected companies). . . . [Ethics Rules at p. 10 (Tab S)]

#### **Outside Employment and Activities**

Service with Non-Federal organizations If you serve as an officer or director of an outside organization, such as a professional association, you may not participate as a USPTO employee on any matter that is likely to affect the financial interests of the organization. This may preclude you from serving with organizations that are active in matters before your office. If it would benefit USPTO to have an official relationship with a private organization, you may be assigned as a liaison to the organization, in which case your service with the organization would be in an official capacity, rather than as an outside activity. However, you may not be assigned to service in an official capacity as an officer or director of a non-Federal organization (other than a standards-setting body). [Ethics Rules at p. 11-12 (Tab S) (emphasis in original).]

The applicability of these ethics rules to the present situation cannot be seriously disputed. Dr. Souw was employed as a PTO Examiner at the same time he admits to being the lead scientist for BMS with an apparent ownership stake in the company, which has a competing interest with BlackLight. Indeed, records indicate that Dr. Souw was a PTO employee prior to the date *Optical Engineering* first received his BMS article on February 6, 2003, and throughout the time that paper was being revised and received on May 6, 2003, and ultimately published on November 2, 2003.<sup>121</sup>

The article's May 6, 2003 revision date is particularly significant. It was only one day later, on May 7, 2003, that the Committee began issuing rejections in BlackLight's pending cases based on Appendices authored by Dr. Souw, starting with the '768 application. Dr. Souw's genuine conflict of interest in working for BMS during his employ as a PTO examiner—and while rejecting a competitor's patent applications no less—should be obvious to any fair-minded person and, thus, requires no further discussion.<sup>122</sup>

This clear conflict of interest is especially troubling given the many other questionable activities that have occurred in the prosecution of BlackLight's applications as documented and described above, including:

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<sup>121</sup> See, for example, U.S. Patent No. 6,506,648, issued January 14, 2003, which identifies Bernard Souw as the Assistant Examiner. Based on established PTO procedures, Examiner Souw is believed to have been a PTO employee when the Notice of Allowance was issued in that case, well before January 2003.

<sup>122</sup> Interestingly, Dr. Souw mentions in his article that he co-founded BMS in 1993 while working for BNL and that he left BNL in 1997 to join the PTO, apparently while still operating BMS. According to the article, Dr. Souw then left the PTO in 2000 to join ITT Industries as a scientist/engineer in the optical communications field until 2002, when he left "to dedicate more time as lead scientist with BMS Enterprise." [Emphasis added.] Dr. Souw, however, notably fails to mention in the BMS article his apparent re-employment by the PTO, which failure, incidentally, does comply with at least one PTO ethics rule: "you may not use your Government title in connection with a non-Government activity." [[Ethics Rules at p. 7 (Tab S) (emphasis in original)]]

Also somewhat troubling is that Dr. Souw apparently continues to examine and issue applications in other art areas that overlap with his scientific work for BMS, including optical communications, which is the subject matter of his published article. [See, e.g., U.S. Patent No. 6,801,676, filed June 24, 2003 and issued October 5, 2004, on a "Method and apparatus for phase shifting an optical beam in an optical device with a buffer plug" (recognizing in the "Background of the Invention" section that "the need for fast and efficient optical-based technologies is increasing as Internet data traffic growth rate is overtaking voice traffic pushing the need for optical communications.")]

- (1) the withdrawal from issue of five allowed BlackLight applications under highly suspicious circumstances involving interference by Dr. Robert Park, spokesman for the American Physical Society (APS), a BlackLight competitor;
- (2) the admission by Dr. Park's APS colleague, Dr. Peter Zimmerman, that Dr. Park has a "Deep Throat" contact at the Patent Office who has provided him with information concerning BlackLight applications;
- (3) the rejection of Applicant's claims based on a non-peer reviewed article posted on an Internet bulletin board authored by Dr. Zimmerman, who has bragged that while working at the State Department his agency and the Patent Office "have fought back with success" against BlackLight;
- (4) Dr. Zimmerman's improper contact of scientific journals in an attempt to prevent Applicant from meeting the publication requirement imposed by the Committee before his experimental evidence would even be considered; and
- (5) Examiner Wayne Langel's untimely resignation from the examination of BlackLight's applications for "moral and ethical reasons" after being told to materially misrepresent the record and that "allowance is not an option" in these cases.

In view of this sordid prosecution history, Applicant is understandably outraged by the discovery that following Examiner Langel's unfortunate resignation, the Committee appointed Dr. Souw to continue carrying out its "allowance is not an option" policy while he represented a competing interest. Applicant has demanded several times that the PTO provide a complete accounting of the facts and circumstances surrounding prior questionable activities, including those summarized above. Applicant has made a similar demand for information in connection with this latest episode involving Dr. Souw's conflicted association with BMS Enterprise while assigned to examine and reject BlackLight's pending patent applications. Applicant now repeats

that demand for information here, including but not limited to a full disclosure of the facts and circumstances surrounding Dr. Souw's:

- (1) appointment as an examiner assigned to review BlackLight's pending patent applications;
- (2) outside business activities with BMS Enterprise, and with any other business ventures in which he has a financial interest;
- (3) contact with any sources outside the PTO with regard to the subject matter disclosed in any of BlackLight's applications; and
- (4) membership activities or any other participation in any professional organizations, including the APS.<sup>123</sup>

Unfortunately, like Applicant's many other information requests, this one too has been ignored by the Committee despite the serious implications of Dr. Souw's genuine conflict involving his outside business activities. The Committee's refusal to honor these requests, however, only raise further suspicions that there is more information that would only strengthen Applicant's case for a genuine conflict of interest.

Instead of being forthcoming with the true facts and circumstances surrounding that conflict, the Committee initially tried to obscure it by advancing irrelevant and factually inaccurate arguments that contradicted Dr. Souw's own admissions:

Applicant's remarks concerning examiner Souw, and the article (Attachment S) are noted. This article deals with a telescope array, and

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<sup>123</sup> This information is deemed relevant to the following additional PTO ethics rule:

**Appearances of Bias (non-Financial Conflicts of Interest)**

Participation in Professional Organizations If you are an active member of a professional organization, such as a member of a[n] association of attorneys or patent professionals, you will be barred from participating in USPTO on matters in which that organization is a party or is representing a party. If this will interfere with your USPTO duties, you should refrain from such activities or should seek advice from the Ethics Division. . . . [PTO Ethics Rules at p. 10 (Tab S)]

As explained in detail above, and in previous Responses, Applicant has good reason to believe that the APS, and perhaps other professional organizations, have become involved as parties in these proceedings.



does not appear to show any conflict of interest between Dr. Souw's former employer, BMS Enterprise, and his consulting involvement with the present application. [See, e.g., December 21, 2004 Advisory Action filed in U.S. App'n Ser. No. 09/362,693 at p. 2 (emphasis added.)]

The Committee's carefully crafted denial of Dr. Souw's obvious genuine conflict of interest only raised further suspicions by its failure to even address Applicant's basis for asserting the conflict. While the Committee claims to have noted Applicant's remarks regarding this issue, it is apparent from its initial brief response that, true to form, those remarks were wholly ignored.

The Committee's refusal to seriously address the conflict in this case is clear from its narrow focus on the subject matter of the Souw article. Although the Committee correctly notes that the article "deals with a telescope array," that fact is totally irrelevant and, thus, cannot possibly support the Committee's conclusion that the article "does not appear to show any conflict of interest." [Emphasis added.]

Applicant has never relied on the subject matter of Dr. Souw's article as a basis for establishing a conflict in the present application. Rather, as previously discussed, that showing is based upon Dr. Souw's admission in the background summary of the article that he co-founded BMS Enterprise and has continued to operate the company as its lead scientist.<sup>124</sup> In that capacity, he works in two main technical areas—microwave plasma devices and CVD diamond synthesis and applications—identical to those practiced by Applicant while also employed by the PTO to examine and reject Applicant's cases. The Committee's initial refusal to even acknowledge that aspect of Applicant's showing of a genuine conflict of interest in this case, much less discuss it, is telling and only confirms Applicant's showing that a conflict does indeed exist.

The Committee further confirms this conflict in its attempt to gloss over Dr. Souw's startling admission that he operates a business enterprise that competes with Applicant's business interests while examining his cases by claiming that the subject matter of the article, i.e., a telescope array, does not establish a conflict of interest

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<sup>124</sup> As footnoted above, Applicant's only reference to a conflict involving the subject matter of Dr. Souw's article, i.e. optical communications, revolves around his continued examination of other patent applicants' cases in that same art. This pattern of ignoring conflicts merely provides further support for, but does not form the basis of, Applicant's clear showing that Dr. Souw is also conflicted in this case based on his ongoing work for BMS, as disclosed in the article's background summary.

"between Dr. Souw's former employer, BMS Enterprise, and his consulting involvement with the present application." [Emphasis added.] Aside from being non-responsive, this argument is also factually inaccurate.

The Committee incorrectly refers to BMS as a "former employer," in contradiction to Dr. Souw's admissions that he co-founded BMS and, therefore, is presumably a principal owner of the company, and that he continued to operate the company after he was employed by the PTO as an Examiner. The Committee merely compounded its error based on the alleged "former employer" status of BMS with the unfounded conclusion that no conflict of interest exists between Dr. Souw's work for BMS as its lead scientist and his work for the PTO as the Examiner primarily responsible for examining and rejecting Applicant's cases. In drawing this erroneous conclusion, the Committee all but admits the obvious—that Dr. Souw's current employment with BMS does in fact create a genuine conflict of interest, which then taints the Committee's rejections in all of Applicant's cases.

Perhaps realizing the incoherence of its initial response regarding the issue of Dr. Souw's apparent conflict of interest, the Committee, in a subsequent response, drastically changed its position. Although the Committee no longer tries to mischaracterize BMS as a "former employer," astonishingly, it now argues that Dr. Souw's continued operation of that company while he examined and rejected Applicant's patent applications does not create a conflict:

Applicant also implies (page 108) that Dr. Bernard Souw, who has been consulted during the examination of his applications, is also involved in work "competitive" to this [sic] own, which would produce a conflict of interest. The evidence offered by applicant, an article written by Dr. Souw, deals with a telescope array, which is neither an alternative form of hydrogen nor a new previously unappreciated source of energy, and thus does not appear to be competitive with the present "hydrino" or any battery based thereon. While the biographical sketch at the end of the article mentions his involvement in consulting work having to do with microwave plasma devices and CVD diamond synthesis, this would not amount to competition with the present invention or the underlying hydrinos. Diamonds are a form of carbon, and thus are not in competition with hydrogen. Microwave plasma devices are not necessarily related to hydrogen, since they are a type of device or machine. [2/11/05 Office Action at page 4 filed in U.S. App'n Ser. No. 09/110,717.]

The Committee's latest arguments regarding Dr. Souw's conflicting business activities are no more convincing than those previously posited and, in fact, raise so many new issues, Applicant hardly knows where to begin. First, Applicant did not "imply" anything; rather, he simply quoted relevant portions of Dr. Souw's own article admitting to outside business activities that clearly conflict with technologies practiced by Applicant whose pending patent applications has examined and rejected. That alone is sufficient to establish a genuine conflict of interest that fatally taints the biased views of Dr. Souw, which have been universally adopted by the Committee.

Second, the Committee's comment regarding "the evidence offered by Applicant" is disturbing. It is not Applicant's responsibility to "offer" evidence that the Committee itself should have produced in the first place. Worse yet, the Committee continues to withhold additional evidence responsive to Applicant's reasonable request for background information relevant to Dr. Souw's employment history and any conflicts and biases he may have. If and when the Committee decides to cooperate in supplying the requested information, there no telling what additional genuine conflicts of interest will arise in this case based on "the evidence offered by Applicant."

Third, as previously discussed, the Committee's reliance on the subject matter of the article, i.e., a telescope array, is a "red herring" that has absolutely nothing to do with the conflict issues surrounding Dr. Souw's questionable business activities. Applicant has never once asserted that Dr. Souw's work in the area of telescope arrays creates a genuine conflict of interest in this case. For the Committee to raise this as an issue merely highlights the desperation of its latest arguments, further exposing the weakness of its position.

Fourth, the Committee uses strained reasoning in asserting that Dr. Souw's admission to his involvement in consulting work relating to microwave plasma devices and CVD diamond synthesis "would not amount to competition with the present invention or the underlying hydrinos." As explained above, and in other numerous responses, one direct application of the BlackLight's lower-energy hydrogen technology is CVD diamond synthesis, which subject is covered by claims in one of its pending patent applications. For the Committee to ignore this plain, simple fact and weakly argue instead that "[d]iamonds are a form of carbon, and thus are not in competition

with hydrogen" merely demonstrates its refusal to take the conflict issue seriously. Similarly, the Committee's excuse that "microwave plasma devices are not necessarily related to hydrogen, since they are a type of device or machine" hardly merits a response. The formation of microwave plasmas is again a direct application of BlackLight's lower-energy hydrogen technology covered by claims in one of its pending patent applications.

Fifth and finally, the PTO members of the Committee know better than anyone that "competition" between the Examiner and the Applicant whose case he is examining is not the proper standard used in determining the presence of a conflict of interest. Indeed, PTO's own Ethics Rules, as discussed above, forbid an Examiner from engaging in outside employment activities that create even the appearance of impropriety:

**General Rule on Outside Activities.** You may not engage in outside employment or any other personal activity that conflicts with your Department position, including employment that requires disqualification from a significant part of your Government duties or an activity that creates an appearance of using your public office for private gain. . . . [Ethics Rules at p. 5 (Tab S) (emphasis in original).]

The Committee only adds to the injustice perpetrated against Applicant by maintaining the rejections of record as it continues citing Dr. Souw's biased views against Applicant. Applicant once again strenuously protests this unfair treatment and demands that the rejections in the present application be withdrawn immediately so that this case can be allowed to finally issue.

**Examiner Souw's Biased Views Adopted by the Committee  
are Further Demonstrated by Citation to His Own Work**

The genuine conflict of interest that surrounds the questionable employment history of Dr. Souw is not the only source of bias he brings to this case. Dr. Souw also demonstrates extreme bias by citing two of his own technical papers published in the journal *Physica* to support the rejection of Applicant's claims on theoretical grounds. This procedural miscue is inherently unfair for two obvious reasons.

First, the Committee fails to show that the journals in which Dr. Souw's technical papers appear are any more "scientifically qualified" with appropriate review process than the journals that published Applicant's papers. Yet the Committee gives Dr. Souw's papers the "credibility that peer-reviewed articles have" and refuses to bestow the same credibility on Applicant's peer-reviewed journal articles. [See, for example, page 5 of the Committee's May 19, 2004 Office Action in U.S. App'n Ser. No. 09/362,693] The Committee's reliance on Dr. Souw's papers merely illustrates an obvious double standard and demonstrates once again its bias against Applicant in failing to fairly consider his experimental evidence published in prestigious journals as scientifically qualified, which evidence far outweighs the scant evidence produced by Dr. Souw. This double standard is but another example of the Committee's arbitrary and capricious handling of Applicant's cases.

Second, the Committee's reliance on the views of Dr. Souw based on citation of his own technical papers against Applicant is inherently unfair since Dr. Souw is no longer an impartial judge. How can the Examiner claim to be unbiased in response to arguments criticizing his own technical papers? The answer is obvious: he can't.

In any case, now that the Committee has relied upon Dr. Souw's own scientific research to support its rejections, Applicant is entitled to know from the Committee certain details of the Examiner's background, including a complete disclosure of his technical education and past work experiences. The Committee's steadfast refusal to disclose that relevant information only provides further basis for overturning its rejections.

In a previous Office Action, the Committee tried, but failed, to rationalize why Dr. Souw should be allowed to cite without scrutiny his own technical papers against Applicant:

Applicant note[s] the involvement of Examiner Bernard Souw in the examination of another of his applications, and that Examiner Souw had previously worked for Brookhaven National Labs. Two things are thus pointed out. First, examiners are allowed, and even encouraged, to consult other examiners on matters of science. Dr. Souw is the author of the attached Appendix. While originally written for Serial No. 09/513,768, the Appendix is considered relevant to the present application for reasons stated below. Second, the employment history of examiners, including

those acting in a consulting role, is irrelevant to the examination thereof, except where there is a genuine conflict of interest. [See April 14, 2004 Office Action at p. 4 in U.S. App'n. Ser. No. 09/008,947]

The first point—that the PTO generally encourages consultation with other Examiners—is not even in dispute and is therefore irrelevant. The present objection to the Committee's consultation of Dr. Souw is his obvious bias in citing papers he authored, which requires that he critically analyze and respond to criticisms of his own work.

The PTO's second point—that the employment history of Examiners is only relevant when there is a "genuine conflict of interest"—is a backward standard that defies common sense.<sup>125</sup> As Applicant aptly demonstrated above, it was only after he was forced to conduct his own investigation into Dr. Souw's relevant employment history—because the Committee improperly withheld that information—that Applicant was then able to demonstrate the existence of a genuine conflict in this case. It would have been impossible to demonstrate that conflict had Applicant not known the Examiner's relevant employment history involving his ongoing ownership and operation of BMS Enterprise and, apparently, the Committee would have liked to keep it that way.

In any case, now that Applicant has satisfied the Committee's "genuine conflict of interest" requirement, the Committee is obligated under its own backward standard to disclose the complete nature and scope of Dr. Souw's employment history so that a full determination can be made regarding the existence of other such conflicts.

### **Demand for Information and Redress**

Applicant believes that the totality of events documented above are highly relevant to the PTO's examination of all of BlackLight's patent applications and accurately describe the detrimental effects that examination has had on Applicant's patent rights. These events further demonstrate the PTO's failure to provide adequate safeguards to the interests of Applicant, including fair and expeditious examination, as

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<sup>125</sup> Applicant disputes that a genuine conflict of interest is actually necessary to show bias—even the appearance of a conflict should be sufficient to taint the views expressed by Dr. Souw. This point is moot, however, since genuine conflicts of interest based on Dr. Souw's outside business activities have been shown, which conflicts have fatally infected Dr. Souw's biased views adopted by the Committee.

contemplated by the Federal Circuit in its June 28, 2002 Decision. Applicant therefore respectfully demands that the PTO provide certain information and redress, including:

- 1) identification of all Examiners or other PTO personnel who were consulted, or otherwise provided input, in the examination of BlackLight's applications;
- 2) identification of all other persons from outside the PTO who were consulted, or otherwise provided input, in the examination of BlackLight's applications;
- 3) identification of all PTO officials responsible for withdrawing BlackLight's five allowed applications from issuance and a complete disclosure of the facts and circumstances surrounding that withdrawal action;
- 4) identification of all outside sources of information who may have precipitated, or otherwise contributed to, the PTO withdrawing BlackLight's five allowed applications from issuance and a complete disclosure of the facts and circumstances surrounding those actions;
- 5) a complete disclosure of the facts and circumstances surrounding the removal of Examiner Langel from examining BlackLight's applications and the transfer those cases to a new Examiner, including, but not limited to, identification of all persons involved in those actions;
- 6) the information sought above in connection with the questionable statements made by Examiner Wayner in the '180 application;
- 7) the information sought above in connection with Dr. Souw's conflict of interest in owning and operating BMS Enterprise while assigned by the PTO to examine and reject BlackLight's pending patent applications;
- 8) the immediate removal of Dr. Souw, and other members of the Secret Committee, as Examiners in all pending BlackLight applications, and the reinstatement of Examiner Langel to his position as the Examiner of record in those cases to which he had been previously assigned;
- 9) the examination and issuance of all allowable BlackLight applications in accordance with the above-mentioned representations and agreements made at the February 11, 2003 Interview; and
- 10) as a matter of equity, the immediate issuance, without further examination, of all five of BlackLight's withdrawn patent applications due to the PTO's failure to provide the safeguards to the interests of

Applicant, including fair and expeditious further examination, as contemplated by the Federal Circuit in its June 28, 2002 Decision.

**Response to Specific Arguments Presented in  
the Secret Committee's Present Advisory Action**

Applicant reached agreements with the PTO during the February 11, 2003 Interview as to how it would conduct its examination of BlackLight's applications following the tumultuous prosecution history of these cases. The Secret Committee, in its subsequent Office Actions, including the present Advisory Action, now defaults on those agreements, whereby examination in this case reverts back to ignoring most of Applicant's scientific evidence on baseless theoretical grounds and applying improper patent standards consistent with its "allowance is not an option" policy. Despite the unfairness of these actions, Applicant will not be deterred from seeking the patent rights to which he is entitled.

With that said, Applicant now turns to the Committee's latest arguments in the present Advisory Action, which primarily rely on the biased views of its newly appointed Examiner, Dr. Bernard Eng-Kie Souw, as expressed in his attached Appendix. Applicant rebuts each and every one of those arguments below and explains why they totally lack any merit. As previously discussed, the Committee's adoption of Dr. Souw's views to reject the claims in this case is also misguided due to his genuine conflict of interest in working as the lead scientist for a competing company while examining Applicant's cases and in citing his own technical papers against Applicant.

For these many reasons, the Committee's biased rejections are simply not credible and cannot stand up to Applicant's overwhelming experimental evidence of lower-energy hydrogen, which the Committee has either misconstrued or ignored altogether. Applicant therefore demands immediate allowance of all claims in this application and his other pending cases.

Before addressing the Committee's latest baseless arguments, however, Applicant first must strenuously protest once again the outrageous and onerous procedural requirements the Committee has imposed upon Applicant in prosecuting his applications. Unfortunately, the Committee's denial of Applicant a fair and expeditious examination has become an all too familiar occurrence.



In this latest procedural morass, the Committee has now issued an Advisory Action in this case requiring Applicant's response to forty-four pages of new arguments and twenty-one newly cited references. It was bad enough that the Committee included these voluminous new arguments in an Advisory Action without extending Applicant the courtesy of withdrawing the finality of the April 22, 2004 Office Action and establishing a new time period for him to respond. The Committee only made the situation more onerous by mailing its Advisory Action on May 12, 2005, almost seven months after Applicant had responded to that Final Office Action on October 22, 2004, leaving Applicant less than ten days to respond.

Applicant attempted to correct this latest abuse of PTO procedures by requesting that a new time period be set. Applicant's counsel first called SPE Patrick Ryan's office on May 13, 2005 and was notified that he was on vacation until May 17, 2005. Counsel was then transferred to the acting SPE, who stated that he had no authority to handle the matter and recommended waiting until SPE Ryan returned for his decision. Counsel then telephoned Director Michael Ball, whose secretary noted Counsel's request for a new Office Action and passed the message on to the Director. The Director's secretary later telephoned counsel and informed him that the Director also refused to handle the matter. Later that day, Special Programs Examiner Bill Krynski telephoned Counsel and stated that no new Office Action would be issued. Examiner Krynski explained that it was now standard PTO practice to issue larger Advisory Actions and suggested that counsel file a continuation application. Regardless of this supposed "standard practice," that does not excuse the late mailing of the sizable Advisory Action in question. Counsel therefore left a telephone message for SPE Ryan on May 17, 2005, requesting issuance of a new Office Action in this case. Counsel, however, has yet to hear back from SPE Ryan or any other PTO official on his request. Counsel therefore now formally renews that request in writing.

Despite the PTO's arbitrary refusal to accord Applicant a full and fair opportunity to respond to the voluminous new arguments presented in the Committee's 44-page May 12, 2005 Advisory Action, Applicant nonetheless complies with its onerous procedural requirements that have been imposed on him by submitting the following complete response rebutting to those arguments. This latest action is noteworthy for

the Committee's continued stubborn refusal to grant Applicant a fair hearing on the mountain of scientific evidence, submitted at its request, proving the existence of lower energy states of hydrogen. With now over 60 peer-reviewed articles published in respected scientific journals—and the list keeps growing—Applicant has now achieved acceptance in the scientific community, which was improperly required by the Committee as a condition for patentability in this case.

Rather than fully and fairly evaluate Applicant's compelling experimental evidence, the Committee now takes the extreme position that all of this evidence "detract[s] from the central issue that the hydrino does not theoretically exist." [Advisory Action at page 2 (emphasis added).] Out of the multitude of baseless arguments that dominate the Committee's Advisory Action, this one truly stands out as perhaps the most outrageous.

Applicant has spent enormous amounts of effort and money complying with the PTO's arbitrary requirement that he publicly disclose his confidential data in peer-reviewed publications to prove the existence of lower-energy hydrogen. Now, incredibly, Applicant is being told that those efforts have been for naught since, according to the Committee, "all of applicant's data cannot prove what is not theoretically possible." [Advisory Action at page 2.] This statement is not only grossly erroneous, but it also contradicts the Committee's own prior statements. Indeed, in previous Office Actions, the Committee has responded to Applicant's criticism by vehemently denying that it was taking the position that the existence of lower-energy hydrogen was impossible. For instance, Committee-member Souw tried to claim:

Contrary to Applicant's allegation on pg. 13, 1<sup>st</sup> full paragraph, lines 2-4, the PTO's view is not at all that the existence of lower-energy hydrogen were impossible, but instead, that (a) Applicant's invention is not supported by any experimental fact or evidence, and (b) the underlying theory (i.e., GUT/CQM) fails to support the invention, because it contains too many flaws. [Souw Appendix at p. 3 attached to the Committee's Final Office Action mailed August 24, 2004 in Applicant's U.S. Ser. No. 08/467,051 (emphasis added).]

Such inconsistent positions permeate the Committee's present Advisory Action and provides further grounds for overturning the pending rejections.

As Applicant has consistently argued, the only way to settle the theoretically argument on whether lower-energy hydrogen actually exists is to properly evaluate the real-world evidence that Applicant and independent third parties have generated. For the Committee to now assert that this real-world evidence "detract[s] from the central issue that the hydrino does not theoretically exist" turns science on its head and is an embarrassment to a government agency charged with "promot[ing] the Progress of Science and useful Arts." [See U.S. Constitution, Art. I, Sect. 8, Clause 8.]

This is but one of many examples of the outrageous positions the Committee has taken in its latest action. Another includes its contined reliance almost exclusively on the clearly biased views of Dr. Souw—who now equates Applicant's sophisticated hydrogen technology with "crop circles"!—in disregard of the genuine conflict created by his competing business interests. Indeed, the Committee fully adopts those biased views once again by including yet another lengthy submission (41 pages) authored by Dr. Souw as an Attachment to its Advisory Action (Souw Attachment IV).

The Committee merely repeats in the main body of that Action many of the same errors that plague the Souw Appendix, including numerous conflicting statements, mathematical errors, false premises, improper standards, misstatements of facts, and general confusion. Worse yet, the Committee in its latest Action has now gone even a step further over the line by accepting as fact the false and misleading statements of third parties who misrepresented published data in an attempt to torpedo the acceptance Applicant's technology has achieved in the scientific community.<sup>126</sup>

These cumulative errors have worked to deny Applicant the due process he is entitled to under applicable U.S. Patent Laws and PTO procedures. Applicant respectfully requests that the Committee rethink its combative approach to examining this application and once again follow the guidelines it previously had adopted for properly evaluating Applicant's scientific evidence.

### **Section 1**

With respect to the specific arguments advanced in the Advisory Action, the

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<sup>126</sup> Dr. Zimmerman's apparent pre-knowledge of this publication once again calls into question the role he and other APS officials, including Dr. Park, have played in sabotaging Applicant's patent rights.

Committee begins by incorrectly asserting on page 2 that:

As stated in the previous office actions, applicant's claimed invention is based on the existence of the hydrino atom which is contrary to the known laws and theories of chemistry and physics.

That statement is simply untrue and the Committee cannot cite to any known law of chemistry or physics that has been violated. That is because there are none—Applicant's invention is based on compliance with all physical laws, even at the atomic level. Rather than using postulated unverifiable theories that treat atomic particles as if they were not real, Applicant now applies physical laws to atoms and ions. The Committee's failure to comprehend this fact is fatal to its entire analysis.

In an attempt to provide some physical insight into atomic problems and starting with the same essential physics as Bohr of  $e^-$  moving in the Coulombic field of the proton with a true wave equation, as opposed to the diffusion equation of Schrödinger, a classical approach is explored that yields a remarkably accurate model and provides insight into physics on the atomic level. The proverbial view deeply seated in the wave-particle duality notion that there is no large-scale physical counterpart to the nature of the electron is shown to be incorrect. Physical laws and intuition may now be restored when dealing with the wave equation and quantum atomic problems.

Specifically, a theory of classical quantum mechanics (CQM) was derived from first principles as reported previously [1-7] that successfully applies physical laws to the solution of atomic problems that has its basis in a breakthrough in the understanding of the stability of the bound electron to radiation. Rather than using the postulated Schrödinger boundary condition: " $\Psi \rightarrow 0$  as  $r \rightarrow \infty$ ", which leads to a purely mathematical model of the electron, the constraint is based on experimental observation. Using Maxwell's equations, *the classical wave equation is solved with the constraint that the bound  $n = 1$ -state electron cannot radiate energy*. Although it is well known that an accelerated *point* particle radiates, an *extended distribution* modeled as a superposition of accelerating charges does not have to radiate. A simple invariant physical model arises naturally, wherein the predicted results are extremely straightforward and internally consistent requiring minimal math as in the case of the most famous equations of Newton, Maxwell, Einstein, de Broglie, and Planck on which

the model is based. No new physics is needed; only the known physical laws based on direct observation are used. The solution of the excited states of one-electron atoms is given in R. Mills, *The Grand Unified Theory of Classical Quantum Mechanics*, January 2005 Edition, BlackLight Power, Inc., Cranbury, New Jersey, (" '05 Mills GUT"):

Classical Quantum Theory of the Atom Based on Maxwell's Equations

The old view that the electron is a zero or one-dimensional point in an all-space probability wave function  $\Psi(x)$  is not taken for granted. The theory of classical quantum mechanics (CQM), derived from first principles, must successfully and consistently apply physical laws on all scales [1-7]. Stability to radiation was ignored by all past atomic models. Historically, the point at which QM broke with classical laws can be traced to the issue of nonradiation of the one electron atom. Bohr just postulated orbits stable to radiation with the further postulate that the bound electron of the hydrogen atom does not obey Maxwell's equations—rather it obeys different physics [1-10]. Later physics was replaced by "pure mathematics" based on the notion of the inexplicable wave-particle duality nature of electrons which lead to the Schrödinger equation wherein the consequences of radiation predicted by Maxwell's equations were ignored. Ironically, Bohr, Schrödinger, and Dirac used the Coulomb potential, and Dirac used the vector potential of Maxwell's equations. But, all ignored electrodynamics and the corresponding radiative consequences. Dirac originally attempted to solve the bound electron physically with stability with respect to radiation according to Maxwell's equations with the further constraints that it was relativistically invariant and gave rise to electron spin [11]. He and many founders of QM such as Sommerfeld, Bohm, and Weinstein wrongly pursued a planetary model, were unsuccessful, and resorted to the current mathematical-probability-wave model that has many problems [10, 11-14]. Consequently, Feynman for example, attempted to use first principles including Maxwell's equations to discover new physics to replace quantum mechanics [15].

Physical laws may indeed be the root of the observations thought to be "purely quantum mechanical", and it was a mistake to make the assumption that Maxwell's electrodynamic equations must be rejected at the atomic level. Thus, in the present approach, the classical wave equation is solved with the constraint that a bound  $n = 1$ -state electron cannot radiate energy.

Herein, derivations consider the electrodynamic effects of moving charges as well as the Coulomb potential, and the search is for a solution representative of the electron wherein there is acceleration of charge motion without radiation. The mathematical formulation for zero radiation based on Maxwell's equations follows from a derivation by Haus [16]. The

function that describes the motion of the electron must not possess spacetime Fourier components that are synchronous with waves traveling at the speed of light. Similarly, nonradiation is demonstrated based on the electron's electromagnetic fields and the Poynting power vector.

It was shown previously [1-7] that CQM gives closed form solutions for the atom including the stability of the  $n = 1$  state and the instability of the excited states, the equation of the photon and electron in excited states, the equation of the free electron, and photon which predict the wave particle duality behavior of particles and light. The current and charge density functions of the electron may be directly physically interpreted. For example, spin angular momentum results from the motion of negatively charged mass moving systematically, and the equation for angular momentum,  $\mathbf{r} \times \mathbf{p}$ , can be applied directly to the wave function (a current density function) that describes the electron. The magnetic moment of a Bohr magneton, Stern Gerlach experiment, g factor, Lamb shift, resonant line width and shape, selection rules, correspondence principle, wave particle duality, excited states, reduced mass, rotational energies, and momenta, orbital and spin splitting, spin-orbital coupling, Knight shift, and spin-nuclear coupling, and elastic electron scattering from helium atoms, are derived in closed-form equations based on Maxwell's equations. The calculations agree with experimental observations.

The Schrödinger equation gives a vague and fluid model of the electron. Schrödinger interpreted  $e\Psi^*(x)\Psi(x)$  as the charge-density or the amount of charge between  $x$  and  $x + dx$  ( $\Psi^*$  is the complex conjugate of  $\Psi$ ). Presumably, then, he pictured the electron to be spread over large regions of space. After Schrödinger's interpretation, Max Born, who was working with scattering theory, found that this interpretation led to inconsistencies, and he replaced the Schrödinger interpretation with the probability of finding the electron between  $x$  and  $x + dx$  as

$$\int \Psi(x)\Psi^*(x)dx \quad (1)$$

Born's interpretation is generally accepted. Nonetheless, interpretation of the wave function is a never-ending source of confusion and conflict. Many scientists have solved this problem by conveniently adopting the Schrödinger interpretation for some problems and the Born interpretation for others. This duality allows the electron to be everywhere at one time—yet have no volume. Alternatively, the electron can be viewed as a discrete particle that moves here and there (from  $r = 0$  to  $r = \infty$ ), and  $\Psi\Psi^*$  gives the time average of this motion.

In contrast to the failure of the Bohr theory and the nonphysical, adjustable-parameter approach of quantum mechanics, multielectron atoms [1, 5] and the nature of the chemical bond [1, 4] are given by exact

closed-form solutions containing fundamental constants only. Using the nonradiative wave equation solutions that describe the bound electron having conserved momentum and energy, the radii are determined from the force balance of the electric, magnetic, and centrifugal forces that corresponds to the minimum of energy of the system. The ionization energies are then given by the electric and magnetic energies at these radii. The spreadsheets to calculate the energies from exact solutions of one through twenty-electron atoms are given in '05 Mills GUT [1] and are available from the internet [17]. For 400 atoms and ions the agreement between the predicted and experimental results is remarkable.

#### References<sup>127</sup>

1. R. Mills, *The Grand Unified Theory of Classical Quantum Mechanics*, January 2005 Edition; posted at <http://www.blacklightpower.com/bookdownload.shtml>.
2. R. L. Mills, "The Grand Unified Theory of Classical Quantum Mechanics", *Int. J. Hydrogen Energy*, Vol. 27, No. 5, (2002), pp. 565-590.
3. R. L. Mills, "Classical Quantum Mechanics", submitted; posted at <http://www.blacklightpower.com/pdf/CQMTheoryPaperTablesand%20Figures080403.pdf>.
4. R. L. Mills, "The Nature of the Chemical Bond Revisited and an Alternative Maxwellian Approach", submitted; posted at <http://www.blacklightpower.com/pdf/technical/H2PaperTableFiguresCaptions111303.pdf>.
5. R. L. Mills, "Exact Classical Quantum Mechanical Solutions for One-Through Twenty-Electron Atoms", submitted; posted at <http://www.blacklightpower.com/pdf/technical/Exact%20Classical%20Quantum%20Mechanical%20Solutions%20for%20One-%20Through%20Twenty-Electron%20Atoms%20042204.pdf>.
6. R. L. Mills, "Maxwell's Equations and QED: Which is Fact and Which is Fiction", submitted; posted at <http://www.blacklightpower.com/pdf/technical/MaxwellianEquationsandQED080604.pdf>.
7. R. L. Mills, "Exact Classical Quantum Mechanical Solution for Atomic Helium Which Predicts Conjugate Parameters from a Unique Solution for the First Time", submitted; posted at <http://www.blacklightpower.com/pdf/technical/ExactCQMSolutionforAtomicHelium073004.pdf>.
8. R. L. Mills, "The Fallacy of Feynman's Argument on the Stability of the Hydrogen Atom According to Quantum Mechanics", submitted; posted at <http://www.blacklightpower.com/pdf/Feynman%27s%20Argument%20Spec%20UPDATE%20091003.pdf>.

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<sup>127</sup> The references cited here, and in other passages of Mills' papers quoted throughout this Response, should not be confused with the references cited on Applicant's master list.

9. R. Mills, "The Nature of Free Electrons in Superfluid Helium--a Test of Quantum Mechanics and a Basis to Review its Foundations and Make a Comparison to Classical Theory", *Int. J. Hydrogen Energy*, Vol. 26, No. 10, (2001), pp. 1059-1096.
10. R. Mills, "The Hydrogen Atom Revisited", *Int. J. of Hydrogen Energy*, Vol. 25, Issue 12, December, (2000), pp. 1171-1183.
11. P. Pearle, *Foundations of Physics*, "Absence of radiationless motions of relativistically rigid classical electron", Vol. 7, Nos. 11/12, (1977), pp. 931-945.
12. V. F. Weisskopf, *Reviews of Modern Physics*, Vol. 21, No. 2, (1949), pp. 305-315.
13. H. Wergeland, "The Klein Paradox Revisited", *Old and New Questions in Physics, Cosmology, Philosophy, and Theoretical Biology*, A. van der Merwe, Editor, Plenum Press, New York, (1983), pp. 503-515.
14. A. Einstein, B. Podolsky, N. Rosen, *Phys. Rev.*, Vol. 47, (1935), p. 777.
15. F. Dyson, "Feynman's proof of Maxwell equations", *Am. J. Phys.*, Vol. 58, (1990), pp. 209-211.
16. H. A. Haus, "On the radiation from point charges", *American Journal of Physics*, Vol. 54, 1126-1129 (1986).
17. <http://www.blacklightpower.com/new.shtml>.

The hydrogen atom is solved correctly using classical quantum mechanics. It provides for the stability of the hydrogen atom based on Maxwell's equations; whereas standard quantum mechanics (SQM) does not. Further application of physical laws predicts that energy can be transferred nonradiatively to a catalyst that can resonantly accept the energy to form lower-energy states of hydrogen corresponding to an extension of the Rydberg states to lower levels. These states are confirmed experimentally.

Studies that experimentally confirm a novel reaction of atomic hydrogen which produces hydrogen in fractional quantum states that are at lower energies than the traditional "ground" ( $n = 1$ ) state, a chemically generated or assisted plasma (rt-plasma), and produces novel hydride compounds are summarized above in the section entitled, "Lower-Energy Hydrogen Experimental Data" and include:

extreme ultraviolet (EUV) spectroscopy,<sup>128</sup>

characteristic emission from catalysis and the hydride ion products,<sup>129</sup>

lower-energy hydrogen emission,<sup>130</sup>

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<sup>128</sup> Reference Nos. 11-16, 20, 24, 27-29, 31-36, 39, 42-43, 46-47, 50-52, 54-55, 57, 59, 63, 65-68, 70-76, 78-79, 81, 83, 85, 86, 89, 91-93, 95-96, 98, 101, 104, 108-112.

<sup>129</sup> Reference Nos. 24, 27, 32, 39, 42, 46, 51-52, 55, 57, 68, 72-73, 81, 89, 91, 108.



plasma formation,<sup>131</sup>  
Balmer  $\alpha$  line broadening,<sup>132</sup>  
population inversion of hydrogen lines,<sup>133</sup>  
elevated electron temperature,<sup>134</sup>  
anomalous plasma afterglow duration,<sup>135</sup>  
power generation,<sup>136</sup>  
excessive light emission,<sup>137</sup> and  
analysis of chemical compounds.<sup>138</sup>

## **Section 2**

The Committee's faulty analysis of Applicant's novel hydrogen technology continues on page 2 of its Advisory Action with the argument that:

Applicant's theory of the hydrino atom predicts a new form of the hydrogen atom having energy states represented by fractional quantum numbers that are below the conventional ground state of the hydrogen atom. These energy states having fractional quantum numbers are contrary to the conventionally accepted energy states of the hydrogen atom having positive integer quantum numbers predicted by quantum mechanics that have been successfully verified by decades of independent, reproducible experimental results as stated in ATTACHMENT TO RESPONSE TO APPLICANT'S ARGUMENTS in paper #12 mailed on 3/25/2003 (hereinafter referred to as "ATTACHMENT in paper #12").

The Committee refuses to recognize that SQM has many problems that disqualifies it as providing the correct solution of the hydrogen atom in the nonradiative, stable  $n=1$  state, as well as excited states, as discussed previously in:

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<sup>130</sup> Reference Nos. 14, 28-29, 33-36, 50, 63, 67, 70-71, 73, 75-76, 78-79, 86-87, 90, 92, 93, 98, 101, 104, 110-112.

<sup>131</sup> Reference Nos. 11-13, 15-16, 20, 24, 27, 32, 39, 42, 46-47, 51-52, 54-55, 57, 72, 81, 89, 91-93, 108, 109.

<sup>132</sup> Reference Nos. 16, 20, 30, 33-37, 39, 42-43, 49, 51-52, 54-55, 57, 63-65, 68-69, 71-74, 81-85, 88-89, 91, 92, 93, 95-97, 105, 108, 109.

<sup>133</sup> Reference Nos. 39, 46, 51, 54, 55, 57, 59, 65-66, 68, 74, 83, 85, 89, 91.

<sup>134</sup> Reference Nos. 34-37, 43, 49, 63, 67, 73.

<sup>135</sup> Reference Nos. 12-13, 47, 81.

<sup>136</sup> Reference Nos. 30-31, 33, 35-36, 39, 43, 50, 63, 71-73, 76-77, 81, 84, 89, 92, 93, 98, 101, 104, 108, 110-112.

<sup>137</sup> Reference Nos. 11, 16, 20, 23, 31, 37, 43, 52, 72, 109

<sup>138</sup> Reference Nos. 6-10, 19, 25, 38, 41, 44-45, 60-62, 64, 69, 75, 81-82, 87-88, 90, 92, 93, 94, 98, 100, 101, 104, 108, 110-112.

107. R. L. Mills, "Maxwell's Equations and QED: Which is Fact and Which is Fiction", Physics Essays, submitted.
106. R. L. Mills, "Exact Classical Quantum Mechanical Solution for Atomic Helium Which Predicts Conjugate Parameters from a Unique Solution for the First Time", Annales de la Fondation Louis de Broglie, submitted.
102. R. L. Mills, "Exact Classical Quantum Mechanical Solutions for One-Through Twenty-Electron Atoms", Physics Essays, submitted.
94. R. L. Mills, "The Nature of the Chemical Bond Revisited and an Alternative Maxwellian Approach", Physics Essays, in press.
80. R. L. Mills, "The Fallacy of Feynman's Argument on the Stability of the Hydrogen Atom According to Quantum Mechanics", Annales de la Fondation Louis de Broglie, submitted.
58. R. L. Mills, "Classical Quantum Mechanics", Physics Essays, in press.
21. R. Mills, "The Grand Unified Theory of Classical Quantum Mechanics", Int. J. Hydrogen Energy, Vol. 27, No. 5, (2002), pp. 565-590.
17. R. Mills, "The Nature of Free Electrons in Superfluid Helium--a Test of Quantum Mechanics and a Basis to Review its Foundations and Make a Comparison to Classical Theory", Int. J. Hydrogen Energy, Vol. 26, No. 10, (2001), pp. 1059-1096.
5. R. Mills, "The Hydrogen Atom Revisited", Int. J. of Hydrogen Energy, Vol. 25, Issue 12, December, (2000), pp. 1171-1183.
1. R. Mills, *The Grand Unified Theory of Classical Quantum Mechanics*, September 2001 Edition, BlackLight Power, Inc., Cranbury, New Jersey, Distributed by Amazon.com; January 2005 Edition posted at [www.blacklightpower.com](http://www.blacklightpower.com).

CQM correctly predicts not only the known stable  $n=1$  state and the excited-state energy levels of atomic hydrogen, including the conjugate observables such as the fine structure, Lamb shift, electron spin, the  $g$  factor, and the hyperfine structure missed entirely by the Schrodinger Equation (SE), but it also correctly predicts new energy states formed by a nonradiative, resonant energy transfer to a catalyst. These states are also missed entirely by the SE. This is no surprise since the SE is not predictive; it is not based on observable physics, and it is purely mathematical.

Once again, studies that experimentally confirm a novel reaction of atomic hydrogen which produces hydrogen in fractional quantum states that are at lower energies than the traditional "ground" ( $n = 1$ ) state, a chemically generated or assisted plasma (rt-plasma), and produces novel hydride compounds are summarized in the document entitled, "Lower-Energy Hydrogen Experimental Data" and include:

extreme ultraviolet (EUV) spectroscopy,<sup>139</sup>  
characteristic emission from catalysis and the hydride ion products,<sup>140</sup>  
lower-energy hydrogen emission,<sup>141</sup>  
plasma formation,<sup>142</sup>  
Balmer  $\alpha$  line broadening,<sup>143</sup>  
population inversion of hydrogen lines,<sup>144</sup>  
elevated electron temperature,<sup>145</sup>  
anomalous plasma afterglow duration,<sup>146</sup>  
power generation,<sup>147</sup>  
excessive light emission,<sup>148</sup> and  
analysis of chemical compounds.<sup>149</sup>

## **Section 2a**

The Committee further argues on page 2 of the Advisory Action that:

With respect to applicant's 72 page response to Souw's Appendix attached to the previous office action, the arguments presented therein are substantially the same as those given in copending case 09/009,837. Therefore, a copy of the Appendix written by Examiner Bernard Souw responding to applicant's arguments in two parts for copending case 09/009,837 is attached hereto. Part I responds to the experimental evidence presented by the applicant and Part II responds to the Theoretical Part of applicant's arguments.

With respect to applicant's general 188 page response, applicant mostly repeats his previous arguments which have been addressed by the Examiner as seen in all the previous responses to applicant's arguments.

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<sup>139</sup> Reference Nos. 11-16, 20, 24, 27-29, 31-36, 39, 42-43, 46-47, 50-52, 54-55, 57, 59, 63, 65-68, 70-76, 78-79, 81, 83, 85, 86, 89, 91-93, 95-96, 98, 101, 104, 108-112.

<sup>140</sup> Reference Nos. 24, 27, 32, 39, 42, 46, 51-52, 55, 57, 68, 72-73, 81, 89, 91, 108.

<sup>141</sup> Reference Nos. 14, 28-29, 33-36, 50, 63, 67, 70-71, 73, 75-76, 78-79, 86-87, 90, 92, 93, 98, 101, 104, 110-112.

<sup>142</sup> Reference Nos. 11-13, 15-16, 20, 24, 27, 32, 39, 42, 46-47, 51-52, 54-55, 57, 72, 81, 89, 91-93, 108, 109.

<sup>143</sup> Reference Nos. 16, 20, 30, 33-37, 39, 42-43, 49, 51-52, 54-55, 57, 63-65, 68-69, 71-74, 81-85, 88-89, 91, 92, 93, 95-97, 105, 108, 109.

<sup>144</sup> Reference Nos. 39, 46, 51, 54, 55, 57, 59, 65-66, 68, 74, 83, 85, 89, 91.

<sup>145</sup> Reference Nos. 34-37, 43, 49, 63, 67, 73.

<sup>146</sup> Reference Nos. 12-13, 47, 81.

<sup>147</sup> Reference Nos. 30-31, 33, 35-36, 39, 43, 50, 63, 71-73, 76-77, 81, 84, 89, 92, 93, 98, 101, 104, 108, 110-112.

<sup>148</sup> Reference Nos. 11, 16, 20, 23, 31, 37, 43, 52, 72, 109.

<sup>149</sup> Reference Nos. 6-10, 19, 25, 38, 41, 44-45, 60-62, 64, 69, 75, 81-82, 87-88, 90, 92, 93, 94, 98, 100, 101, 104, 108, 110-112.

Therefore, all of the Examiner's previous responses to applicant's arguments of record, and the appendixes included in all of the previous office actions to support the Examiner's arguments are incorporated by reference in their entirety into this present response to applicant's arguments.

It is simply not true that Applicant mostly repeats his previous arguments. To the contrary, Applicant has specifically and fully responded to each and every point raised by the Committee and submitted experimental evidence to further expose its erroneous positions. It is the Committee who has failed to fully respond to Applicant's rebuttal arguments and to fairly evaluate his evidence.

### **Section 3**

The Committee further argues on page 2 of the Advisory Action that:

All of the Examiner's previous office actions and the present attached appendix by Examiner Bernard Souw explain over and over again why applicant's theory is mathematically and physically flawed. Applicant's flawed theory cannot predict the existence of the hydrino and conventional quantum mechanics forbids the theoretical existence of the hydrino.

Applicant has explained over and over again why SQM is not a valid theory and the Committee has in most cases failed to address, much less rebut, Applicant's position. The Committee continues to misstate that the Schrodinger equation (SE) is a law of nature. Laws are based on reality. That is, they are based on directly measurable parameters, such as energy, mass, electric fields, magnetic fields, forces, etc. The SE has as its parameter Psi, which has no physical basis in reality. This is discussed in detail in

F. Laloë, Do we really understand quantum mechanics? Strange correlations, paradoxes, and theorems, Am. J. Phys. 69 (6), June 2001, 655-701, and has been pointed out in numerous papers by Applicant:

107. R. L. Mills, "Maxwell's Equations and QED: Which is Fact and Which is Fiction", Physics Essays, submitted.
106. R. L. Mills, "Exact Classical Quantum Mechanical Solution for Atomic Helium Which Predicts Conjugate Parameters from a Unique Solution for the First Time", Annales de la Fondation Louis de Broglie, submitted.

102. R. L. Mills, "Exact Classical Quantum Mechanical Solutions for One-Through Twenty-Electron Atoms", Physics Essays, submitted.
94. R. L. Mills, "The Nature of the Chemical Bond Revisited and an Alternative Maxwellian Approach", Physics Essays, in press.
80. R. L. Mills, "The Fallacy of Feynman's Argument on the Stability of the Hydrogen Atom According to Quantum Mechanics", Annales de la Fondation Louis de Broglie, submitted.
58. R. L. Mills, "Classical Quantum Mechanics", Physics Essays, in press.
21. R. Mills, "The Grand Unified Theory of Classical Quantum Mechanics", Int. J. Hydrogen Energy, Vol. 27, No. 5, (2002), pp. 565-590.
17. R. Mills, "The Nature of Free Electrons in Superfluid Helium--a Test of Quantum Mechanics and a Basis to Review its Foundations and Make a Comparison to Classical Theory", Int. J. Hydrogen Energy, Vol. 26, No. 10, (2001), pp. 1059-1096.
5. R. Mills, "The Hydrogen Atom Revisited", Int. J. of Hydrogen Energy, Vol. 25, Issue 12, December, (2000), pp. 1171-1183.
1. R. Mills, *The Grand Unified Theory of Classical Quantum Mechanics*, September 2001 Edition, BlackLight Power, Inc., Cranbury, New Jersey, Distributed by Amazon.com; January 2005 Edition posted at [www.blacklightpower.com](http://www.blacklightpower.com).

The SE gives no stability to radiation and is not predictive of the conjugate parameters of the hydrogen atom. It does not even obey causality. This has been argued by even the founders of quantum mechanics, such as Schrodinger himself, de Broglie, Weisskopf, Einstein, and others as pointed out repetitively by Applicant. These essential points have been presented in responses to prior office actions, as well as in the papers cited above and citations therein. The Committee continues to refuse to face these inescapable realities of the failures and limitations of SQM. Even more disturbing is its refusal to engage Applicant on the overwhelming amount of data that directly confirms the existence of the disclosed new states of atomic hydrogen summarized in the section above entitled, "Lower-Energy Hydrogen Experimental Data".

Many postulated theories of physics have been weakened or disproven due to new real-world measurements. The observation of the acceleration of the expansion of the cosmos predicted by Applicant's theory years before it was confirmed experimentally undercuts the traditional "Big Bang" origin of the universe. The observation from the Hubble images that time is continuous disproves string theories

and the Heisenberg Uncertainty principle. The failure to find the Higgs boson undercuts the standard model as providing no basis for masses of fundamental particles; whereas Applicant accurately calculates the masses in closed form, including the mass of the top quark before it was detected at the D0 detector. Applicant's theory is based on physical laws and unifies Maxwell's equations with Special and General relativity and atomic physics. Other hodgepodge theories based on postulates and pure mathematics are proving to be failures. The Committee's failure to concede these well-known facts merely confirms its biases and the arbitrary approach it has taken to examining the present applications.

The data and the details of these results are given in the following papers and book:

107. R. L. Mills, "Maxwell's Equations and QED: Which is Fact and Which is Fiction", Physics Essays, submitted.
106. R. L. Mills, "Exact Classical Quantum Mechanical Solution for Atomic Helium Which Predicts Conjugate Parameters from a Unique Solution for the First Time", Annales de la Fondation Louis de Broglie, submitted.
102. R. L. Mills, "Exact Classical Quantum Mechanical Solutions for One-Through Twenty-Electron Atoms", Physics Essays, submitted.
94. R. L. Mills, "The Nature of the Chemical Bond Revisited and an Alternative Maxwellian Approach", Physics Essays, in press.
80. R. L. Mills, "The Fallacy of Feynman's Argument on the Stability of the Hydrogen Atom According to Quantum Mechanics", Annales de la Fondation Louis de Broglie, submitted.
58. R. L. Mills, "Classical Quantum Mechanics", Physics Essays, in press.
21. R. Mills, "The Grand Unified Theory of Classical Quantum Mechanics", Int. J. Hydrogen Energy, Vol. 27, No. 5, (2002), pp. 565-590.
17. R. Mills, "The Nature of Free Electrons in Superfluid Helium--a Test of Quantum Mechanics and a Basis to Review its Foundations and Make a Comparison to Classical Theory", Int. J. Hydrogen Energy, Vol. 26, No. 10, (2001), pp. 1059-1096.
5. R. Mills, "The Hydrogen Atom Revisited", Int. J. of Hydrogen Energy, Vol. 25, Issue 12, December, (2000), pp. 1171-1183.
1. R. Mills, *The Grand Unified Theory of Classical Quantum Mechanics*, September 2001 Edition, BlackLight Power, Inc., Cranbury, New Jersey, Distributed by Amazon.com; January 2005 Edition posted at [www.blacklightpower.com](http://www.blacklightpower.com).

#### **Section 4**

Incredibly, after Applicant has already invested millions of dollars supplying the Committee with the published experimental evidence it required for patentability, the Committee now informs Applicant that his experimental evidence is of little or no value. On page 2 of its Advisory Action, the Committee argues that Applicant's real-world evidence of lower-energy hydrogen can be essentially ignored because it detracts from the fact that it does not theoretically exist:

It is also illogical for the applicant to analyze his own experimental data using his flawed hydrino theory to prove the existence of the hydrino atom as stated in the previous office actions. Since applicant's theory is scientifically and mathematically flawed, there is no theoretical foundation for the hydrino atom and all of applicant's data cannot prove what is not theoretically possible. All of applicant's own experimental evidence of record **detract** from the central issue that the hydrino does not theoretically exist. [Emphasis added.]

The Committee has it completely backwards. Rather than the possibility that "lower-energy hydrogen does not theoretically exist", quantum mechanics does not physically exist. It is simply a mathematical postulate that can not be tested and has no basis in reality. Physical laws that predict, and experimental data that clearly confirms, the existence of lower-energy hydrogen do exist. Quantum mechanics provides no physical basis for any state of hydrogen. Particularly troublesome is that under SQM, the electron is not stable to radiation. This point is shown by Applicant's analysis [80. R. L. Mills, The Fallacy of Feynman's Argument on the Stability of the Hydrogen Atom According to Quantum Mechanics, Annales de la Fondation Louis de Broglie, submitted], as well as by other theoreticians such as those at Princeton University who show that the Heisenberg Uncertainty Principle provides no atomic stability [E. H. Lieb, "The stability of matter", Reviews of Modern Physics, Vol. 48, No. 4, (1976), pp, 553-569].

Quantum mechanics is not even a theory, and its very premises are nonsensical. It is based on applying statistics to a single particle and a single event. This weird contrivance is then interpreted as meaning the electron can be everywhere at once with an infinite number of positions and energies simultaneously including those that go to infinity in the positive as well as **negative** directions. Even more problematic is that

according to SQM the electron has no physical form until it is measured. Thus, according to the Committee's position, since it creates hydrogen, it can chose which states can exist in reality.

Furthermore, the success of SQM at reproducing numbers comes from the fact that it merely comprises internally inconsistent curve-fitting algorithms devoid of any physics. The ability of the founding equation, the Schrodinger equation (SE) and its solutions, to reproduce the Rydberg formula are touted as justifying the validity of quantum mechanics as representing the nature of physics on the atomic scale. This false confidence gives rise to the practice of curve fitting problems other than the principal energy levels of one electron atoms (the only problem for which a closed-form equation arises) with adjustable-parameters. However, when the postulated SE is evaluated at its fundamental level, it becomes readily apparent that the SE is merely a complicated equivalent form of the Rydberg formula, to which it reduces. The SE has no predictability, nor does it contain any physical truth. It misses stability to radiation, electron spin, the Lamb shift, fine structure, hyperfine structure, g factor and many other observables as detailed previously (see papers below). The lack of predictability confirms that the SE is just a mathematical statement of an empirical relationship discovered a generation prior to it being postulated, and it is not a real theory. See:

107. R. L. Mills, "Maxwell's Equations and QED: Which is Fact and Which is Fiction", Physics Essays, submitted.
106. R. L. Mills, "Exact Classical Quantum Mechanical Solution for Atomic Helium Which Predicts Conjugate Parameters from a Unique Solution for the First Time", Annales de la Fondation Louis de Broglie, submitted.
102. R. L. Mills, "Exact Classical Quantum Mechanical Solutions for One-Through Twenty-Electron Atoms", Physics Essays, submitted.
94. R. L. Mills, "The Nature of the Chemical Bond Revisited and an Alternative Maxwellian Approach", Physics Essays, in press.
80. R. L. Mills, "The Fallacy of Feynman's Argument on the Stability of the Hydrogen Atom According to Quantum Mechanics", Annales de la Fondation Louis de Broglie, submitted.
58. R. L. Mills, "Classical Quantum Mechanics", Physics Essays, in press.
21. R. Mills, "The Grand Unified Theory of Classical Quantum Mechanics", Int. J. Hydrogen Energy, Vol. 27, No. 5, (2002), pp. 565-590.
17. R. Mills, "The Nature of Free Electrons in Superfluid Helium--a Test of Quantum Mechanics and a Basis to Review its Foundations and Make



- a Comparison to Classical Theory", Int. J. Hydrogen Energy, Vol. 26, No. 10, (2001), pp. 1059-1096.
5. R. Mills, "The Hydrogen Atom Revisited", Int. J. of Hydrogen Energy, Vol. 25, Issue 12, December, (2000), pp. 1171-1183.
1. R. Mills, *The Grand Unified Theory of Classical Quantum Mechanics*, September 2001 Edition, BlackLight Power, Inc., Cranbury, New Jersey, Distributed by Amazon.com; January 2005 Edition posted at [www.blacklightpower.com](http://www.blacklightpower.com).

Finally, Applicant must once again highlight the Committee's inconsistent positions in claiming that the existence of lower-energy hydrogen "is not theoretically possible." Ironically, when Applicant first criticized the Committee for taking that extreme position, its response was to chastise him for mischaracterizing its position, claiming it has never said that the existence of lower-energy hydrogen was "impossible." These inconsistent positions do little to provide Applicant with a fair and expeditious examination of his novel hydrogen technology. The time has come to stop this nonsense and fairly evaluate Applicant's technology so that his patents can once again be issued. Thus, while Applicant is certainly willing to debate the theoretical predictions of lower energy states of hydrogen, it is incumbent upon the Committee to follow proper patent standards and evaluate the real-world evidence confirming the existence of lower-energy hydrogen. To this day it has not done so.

## **Section 5**

The Committee, on page 2 of the Advisory Action, misapprehends the implications of Applicant's evidence, in arguing that:

Applicant in his present response continues to misinterpret his own evidence of record and cited prior art. The applicant also continues to misinterpret the Examiner's statements. The discussion below and the attached appendix illustrate some of applicant's misinterpretations.

With respect to applicant's response regarding his NMR data, the applicant modifies his own NMR evidence of record by submitting a new declaration by Dr. Turner (filed 10/22/2004). In the previous office action, the Examiner rebutted applicant's conclusion that the upfield shifts in his NMR data are due to the alleged novel hydrino compound by responding that contaminants such as  $\beta$ -MgNiH have the same upfield shifts. In the previous office action, the Examiner pointed out that Dr. Turner's original declaration filed on 5/18/2000 states that he has never observed shifts in the region of -4 to -5 ppm in his 20 years of practicing NMR spectroscopy

since 1978 except in applicant's samples (a copy of the declaration was attached to the previous office action). Just because Turner himself never observed shifts in the region from -4 to -5 ppm does not provide positive evidence that these are due to novel compounds and not due to any previously known compounds.

As stated in Turner's declaration, the compound that showed the upfield shift only contains potassium as the cation, not magnesium and nickel. So, the Committee's argument that MgNiH has an upfield NMR shift is irrelevant. KH does not have an upfield shift. Nor does hydride substitution for chloride produce an upfield shift as detailed in the following articles:

112. R. L. Mills, J. He, Y. Lu, M. Nansteel, Z. Chang, B. Dhandapani, "Comprehensive Identification and Potential Applications of New States of Hydrogen", Central European Journal of Physics, submitted.
111. R. Mills, J. He, Z. Chang, W. Good, Y. Lu, B. Dhandapani, "Catalysis of Atomic Hydrogen to Novel Hydrogen Species  $H^- (1/4)$  and  $H_2 (1/4)$  as a New Power Source", Thermochemica Acta, submitted.
110. R. L. Mills, J. He, Z. Chang, W. Good, Y. Lu, B. Dhandapani, "Catalysis of Atomic Hydrogen to Novel Hydrides as a New Power Source," Prepr. Pap.-Am. Chem. Soc., Div. Fuel Chem. 2005, 50(2).

## **Section 6**

According to the Committee, on page 2 of its Advisory Action:

The Examiner rebutted this statement in Turner's original declaration by citing references to Hayashi (Hayashi, S. et al. (1997) "Accurate determination of  $^1\text{H}$  Knight shifts in  $\text{Mg}_2\text{NiH}_x$  and  $\text{MgH}_x$  by means of high-speed magic angle spinning," *Journal of Alloys and Compounds*, vol. 248, pp. 66-69 (Paper A); Hayashi, S. et al. (1997) " $^1\text{H}$  NMR and magnetization measurements of a nanostructured composite material of the  $\text{Mg}_2\text{Ni-H}$  system synthesized by reactive mechanical grinding," *Journal of Alloys and Compounds*, vol. 256, pp. 159-165 (Paper B); Hayashi, S. et al. (1997) "Local structures and hydrogen dynamics in amorphous and nanostructured Mg-Ni-H systems as studied by  $^1\text{H}$  and  $^2\text{H}$  nuclear magnetic resonance," *Journal of Alloys and Compounds*, vol. 261, pp. 145-149 (Paper C)) which show that  $\beta\text{-MgNiH}$  has transitions in the -4 to -5 ppm region (see p. 48 of "ATTACHMENT in paper #12").

In response to the Examiner's evidence of record that  $\beta\text{-MgNiH}$  have transitions in the -4 to -5 ppm region, Turner now qualifies his

original statement in the new declaration by adding a new paragraph that the shifts observed in the region from -4 to -5 ppm are only known to be due to transition metal hydrides such as  $\beta$ -MgNiH but that Ni and Mg were not detected in applicant's sample. Turner does not provide any additional evidence besides relying on the Examiner's provided evidence of  $\beta$ -MgNiH to support his general statement that shifts in the region from -4 to -5 ppm are only known to be due to transition metal hydrides. Turner's current statement now reflects the evidence provided by the Examiner that  $\beta$ -MgNiH have transitions in the region of -4 to -5 ppm. Turner does not provide any solid evidence to support his general statement that upfield shifts in the -4 to -5 ppm region are known only to be due to transition metal hydrides. It is inaccurate and illogical to extrapolate a piece of prior art provided by the Examiner showing  $\beta$ -MgNiH having shifts in the -4 to -5 ppm to the general statement that upfield shifts in the -4 to -5 ppm region are known only to be due to transition metal hydrides.

There is no speculation possible in this case. The contents of the sample are known by elemental analysis and K is not known to produce an upfield NMR shift with ordinary hydride. This result directly shows that new states of hydrogen are formed. Furthermore, these states have been confirmed by Fourier transform infrared (FTIR) spectroscopy which shows the corresponding molecule ( $H_2(1/4)$  corresponding to  $H^-(1/4)$ ). Furthermore, the electron-beam excitation spectrum on the compound KHI confirms the FTIR and NMR results:

112. R. L. Mills, J. He, Y. Lu, M. Nansteel, Z. Chang, B. Dhandapani, "Comprehensive Identification and Potential Applications of New States of Hydrogen", Central European Journal of Physics, submitted.
111. R. Mills, J. He, Z. Chang, W. Good, Y. Lu, B. Dhandapani, "Catalysis of Atomic Hydrogen to Novel Hydrogen Species  $H^-(1/4)$  and  $H_2(1/4)$  as a New Power Source", Thermochemica Acta, submitted.
110. R. L. Mills, J. He, Z. Chang, W. Good, Y. Lu, B. Dhandapani, "Catalysis of Atomic Hydrogen to Novel Hydrides as a New Power Source," Prepr. Pap.-Am. Chem. Soc., Div. Fuel Chem. 2005, 50(2).

## **Section 7**

The Committee further commits clear error on page 2 of the present Advisory Action, arguing that:

Furthermore, applicant's and Turner's assertions that there are no contaminants in the sample are not convincing because these samples were not purified after the synthesis process. Applicant's experimental

syntheses of  $\text{KH}^*\text{Cl}$ ,  $\text{KH}^*\text{Br}$ , and  $\text{KH}^*\text{I}$  were made from the corresponding alkali halide  $\text{KCl}$ ,  $\text{KBr}$ , and  $\text{KI}$  using potassium metal as the catalyst and each compound was prepared in a stainless steel glass cell comprising a Ni screen hydrogen dissociator, catalyst, and alkali halide or alkaline earth hydride (see Experimental section on pp. 966-967 of applicant's paper, Mills et al., "Identification of compounds containing novel hydride ions by nuclear magnetic resonance spectroscopy", International Journal of Hydrogen Energy 26 (2001) pp. 965-979). Ni was used as a hydrogen dissociator and can easily be present as a contaminant such as a nickel hydride containing compound in the resulting products.

The problem with the Committee's simplistic analysis is that no nickel was detected by elemental analysis in the sample. This is just another example of the Committee's refusal to properly consider Applicant's scientific evidence based on strained reasoning and contrived excuses.

### **Section 8**

The Committee continues its erroneous analysis on pages 2-3 of the Advisory Action, asserting that:

Turner states in the new declaration that the only compounds known to have chemical shifts at -4.1 and -4.5 ppm are transition metal hydrides. Therefore, it is the Examiner's position that the peaks at -4.1 ppm and -4.5 ppm can be due to minute amounts of contaminants such as a transition metal hydride containing compound in applicant's samples.

The Committee's position is simply wrong.  $^1\text{H}$  MAS NMR is known not to be a technique for trace analysis. Furthermore, elemental analysis can detect orders of magnitude lower concentrations. Thus, the Committee's proposed speculation that "minute amounts of contaminants such as a transition metal hydride" gives rise to the intense upfield shifted peaks was eliminated.

### **Section 9**

The Committee is also wrong in stating on page 3 of the Advisory Action:

The Examiner notes that Turner's new declaration modifies the old declaration by changing the pulse angle from 15 to 35 in paragraph 7 and adding the new paragraph:

"For sample 080304BLP1, in the  $^1\text{H}$  MAS NMR spectrum two unusual signals were observed, at -4.1 and -4.5 ppm. The only compounds known to have chemical shifts in this region are transition metal hydrides, in

particular  $\text{Mg}_2\text{NiH}_4$ . Elemental analysis (Gaibraith Laboratories, Inc., Knoxville, TN) showed that Mg and Ni are not detected in this sample, and that K was the main metal present. Earlier NMR data has shown that the hydride of K appears at about 1.0 ppm. Therefore, these results suggest that the signals at -4.1 and -4.5 ppm represent a novel species, and do not correspond to any known metal hydride."

This new paragraph in Turner's declaration does not provide conclusive support that these upfield shifts are due to a novel species because all possible known transition compounds other than those including Ni that could have upfield shifts in this region have not been ruled out by the applicant or Turner. This new paragraph only states that K was the main metal present. It is silent about what about other metal elements, especially transition metal elements, are present in this sample provided by the applicant.

Transition elements were considered and eliminated by Turner as the source of the up-field shifted peaks using elemental analysis as stated in the Turner declaration. See also Sections 6-8 above.

### **Section 10**

The Committee seeks desperately to find another excuse to dismiss Applicant's evidence by further erroneously arguing on page 3 of the Advisory Action that:

Furthermore, it is also possible that a previously unstudied, ordinary, non-transition metal hydride compound having upfield shifts is present in the sample.

The elemental analysis performed by Turner, as well that performed and published by Applicant, eliminates this possibility. See:

10. R. Mills, B. Dhandapani, N. Greenig, J. He, "Synthesis and Characterization of Potassium Iodo Hydride", Int. J. of Hydrogen Energy, Vol. 25, Issue 12, December, (2000), pp. 1185-1203.

The elemental content sufficient to be detectable by changing the proton NMR shift is shown to be only alkali and halide, which do not produce upfield-shifted NMR peaks as stated in the declaration by Turner, as well as in the following papers:

112. R. L. Mills, J. He, Y. Lu, M. Nansteel, Z. Chang, B. Dhandapani,

- "Comprehensive Identification and Potential Applications of New States of Hydrogen", Central European Journal of Physics, submitted.
111. R. Mills, J. He, Z. Chang, W. Good, Y. Lu, B. Dhandapani, "Catalysis of Atomic Hydrogen to Novel Hydrogen Species  $H^- (1/4)$  and  $H_2 (1/4)$  as a New Power Source", Thermochemica Acta, submitted.
110. R. L. Mills, J. He, Z. Chang, W. Good, Y. Lu, B. Dhandapani, "Catalysis of Atomic Hydrogen to Novel Hydrides as a New Power Source," Prepr. Pap.-Am. Chem. Soc., Div. Fuel Chem. 2005, 50(2).

In addition to elemental analysis, X-ray photoelectron spectroscopy and time-of-flight-secondary-ion-mass-spectroscopy (ToF-SIMS) also confirm the elemental composition as alkali, halide, and hydrogen:

111. R. Mills, J. He, Z. Chang, W. Good, Y. Lu, B. Dhandapani, "Catalysis of Atomic Hydrogen to Novel Hydrogen Species  $H^- (1/4)$  and  $H_2 (1/4)$  as a New Power Source", Thermochemica Acta, submitted.
110. R. L. Mills, J. He, Z. Chang, W. Good, Y. Lu, B. Dhandapani, "Catalysis of Atomic Hydrogen to Novel Hydrides as a New Power Source," Prepr. Pap.-Am. Chem. Soc., Div. Fuel Chem. 2005, 50(2).
10. R. Mills, B. Dhandapani, N. Greenig, J. He, "Synthesis and Characterization of Potassium Iodo Hydride", Int. J. of Hydrogen Energy, Vol. 25, Issue 12, December, (2000), pp. 1185-1203.
8. R. Mills, B. Dhandapani, M. Nansteel, J. He, T. Shannon, A. Echezuria, "Synthesis and Characterization of Novel Hydride Compounds", Int. J. of Hydrogen Energy, Vol. 26, No. 4, (2001), pp. 339-367.

## **Section 11**

The Committee also mistakenly argues on page 3 of the present Advisory Action:

Finally, applicant and Turner both agree that conventional transition metal hydrides have upfield shifts in the -4 to -5S ppm region. Since these NMIR signals are due to the hydrogen atom themselves in these conventional transition metal hydrides as measured by solid state proton NMR, and the position of the signal reflects the surrounding electronic environment of the hydrogen proton, the upfield shifts in these known conventional transition metal hydrides are due to hydrogen protons in a certain electronic environment surrounding the hydrogen protons and are not due to any novel states of the hydrogen atom in the conventional transition metal hydride compounds. Therefore, upfield shifts of protons in solid state proton NMR are known to be due to the electronic environment of the hydrogen proton that do not involve hydrino form of the hydrogen atom. Hydrinos are not necessary to explain the upfield shifts observed by

solid state H NMR as evidenced by known transition metal hydrides having these upfield shifts in the same region.

There is no conventional explanation for the upfield-shifted peak in potassium hydride. The observed shift identically matches that predicted for lower-energy hydrogen. There are confirmations from many techniques. These results are summarized in the following abstracts and reported in the corresponding papers:

112. R. L. Mills, J. He, Y. Lu, M. Nansteel, Z. Chang, B. Dhandapani, "Comprehensive Identification and Potential Applications of New States of Hydrogen", Central European Journal of Physics, submitted.

The data from a broad spectrum of investigational techniques strongly and consistently indicates that hydrogen can exist in lower-energy states than previously thought possible. Novel emission lines with energies of  $q \cdot 13.6 \text{ eV}$  where  $q = 1, 2, 3, 4, 6, 7, 8, 9, 11$  were previously observed by extreme ultraviolet (EUV) spectroscopy recorded on microwave discharges of helium with 2% hydrogen [R. L. Mills, P. Ray, J. Phys. D, Applied Physics, Vol. 36, (2003), pp. 1535-1542]. These lines matched  $H(1/p)$ , fractional Rydberg states of atomic hydrogen wherein

$$n = \frac{1}{2}, \frac{1}{3}, \frac{1}{4}, \dots, \frac{1}{p}; \quad (p \leq 137 \text{ is an integer}) \text{ replaces the well known}$$

parameter  $n = \text{integer}$  in the Rydberg equation for hydrogen excited states. Evidence supports that these states are formed by a resonant nonradiative energy transfer to  $\text{He}^+$  acting as a catalyst.  $\text{Ar}^+$  and  $K$  also serve as catalysts since, like  $\text{He}^+$ , they meet the catalyst criterion—a chemical or physical process with an enthalpy change equal to an integer multiple of the potential energy of atomic hydrogen,  $27.2 \text{ eV}$ .

Two  $H(1/p)$  may react to form  $H_2(1/p)$  that have vibrational and rotational energies that are  $p^2$  times those of  $H_2$  comprising uncatalyzed atomic hydrogen. Rotational lines were observed in the 145-300 nm region from atmospheric pressure electron-beam excited argon-hydrogen plasmas. The unprecedented energy spacing of  $4^2$  times that of hydrogen established the internuclear distance as  $1/4$  that of  $H_2$  and identified  $H_2(1/4)$ . The predicted products of alkali catalyst  $K$  are  $H^-(1/4)$  which form a novel alkali halide hydride compound ( $MH^*X$ ) and  $H_2(1/4)$  which may be trapped in the crystal. The  $^1\text{H}$  MAS NMR spectrum of novel compound  $KH^*Cl$  relative to external tetramethylsilane (TMS) showed a large distinct upfield resonance at -4.4 ppm corresponding to an absolute resonance shift of -35.9 ppm that matched the theoretical prediction of

$H^-(1/p)$  with  $p = 4$ . The predicted catalyst reactions, position of the upfield-shifted NMR peaks for  $H^-(1/4)$ , and spectroscopic data for  $H^-(1/4)$  were found to be in agreement with the experimental observations as well as previously reported analysis of  $KH^*Cl$  containing this hydride ion.

The predicted frequencies of ortho and para- $H_2(1/4)$  were observed at  $1943\text{ cm}^{-1}$  and  $2012\text{ cm}^{-1}$  in the high resolution FTIR spectrum of  $KH^*I$  having a  $-4.6\text{ ppm}$  NMR peak assigned to  $H^-(1/4)$ . The  $1943/2012\text{ cm}^{-1}$ -intensity ratio matched the characteristic ortho-to-para-peak-intensity ratio of 3:1, and the ortho-para splitting of  $69\text{ cm}^{-1}$  matched that predicted.  $KH^*Cl$  having  $H^-(1/4)$  by NMR was incident to the  $12.5\text{ keV}$  electron-beam which excited similar emission of interstitial  $H_2(1/4)$  as observed in the argon-hydrogen plasma.  $H_2(1/p)$  gas was isolated by liquefaction of plasma gas at liquid nitrogen temperature and by decomposition of compounds ( $MH^*X$ ) found to contain the corresponding hydride ions  $H^-(1/p)$ . The  $H_2(1/p)$  gas was dissolved in  $CDCl_3$  and characterized by  $^1H$  NMR. Considering solvent effects, singlet peaks upfield of  $H_2$  were observed with a predicted integer spacing of  $0.64\text{ ppm}$  at  $3.47$ ,  $3.02$ ,  $2.18$ ,  $1.25$ ,  $0.85$ , and  $0.22\text{ ppm}$  which matched the consecutive series  $H_2(1/2)$ ,  $H_2(1/3)$ ,  $H_2(1/4)$ ,  $H_2(1/5)$ ,  $H_2(1/6)$ , and  $H_2(1/7)$ , respectively.

Excess power was absolutely measured from the helium-hydrogen plasma. For an input of  $41.9\text{ W}$ , the total plasma power of the helium-hydrogen plasma measured by water bath calorimetry was  $62.1\text{ W}$  corresponding to  $20.2\text{ W}$  of excess power in  $3\text{ cm}^3$  plasma volume. The excess power density and energy balance were high,  $6.7\text{ W/cm}^3$  and  $-5.4 \times 10^4\text{ kJ/mole } H_2$  ( $280\text{ eV/H atom}$ ), respectively. In addition to power applications, battery and propellant reactions are proposed that may be transformational, and observed excited vibration-rotational levels of  $H_2(1/4)$  could be the basis of a UV laser that could significantly advance photolithography.

111. R. Mills, J. He, Z. Chang, W. Good, Y. Lu, B. Dhandapani, "Catalysis of Atomic Hydrogen to Novel Hydrogen Species  $H^-(1/4)$  and  $H_2(1/4)$  as a New Power Source", *Thermochimica Acta*, submitted.

The data from a broad spectrum of investigational techniques strongly and consistently indicates that hydrogen can exist in lower-energy states than previously thought possible. The predicted reaction involves a resonant, nonradiative energy transfer from otherwise stable atomic hydrogen to a catalyst capable of accepting the energy. The product is



$H(1/p)$ , fractional Rydberg states of atomic hydrogen wherein  $n = \frac{1}{2}, \frac{1}{3}, \frac{1}{4}, \dots, \frac{1}{p}$ ; ( $p \leq 137$  is an integer) replaces the well known parameter  $n = \text{integer}$  in the Rydberg equation for hydrogen excited states.  $He^+$ ,  $Ar^+$ , and  $K$  are predicted to serve as catalysts since they meet the catalyst criterion—a chemical or physical process with an enthalpy change equal to an integer multiple of the potential energy of atomic hydrogen, 27.2 eV. Specific predictions based on closed-form equations for energy levels were tested. For example, two  $H(1/p)$  may react to form  $H_2(1/p)$  that have vibrational and rotational energies that are  $p^2$  times those of  $H_2$  comprising uncatalyzed atomic hydrogen. Rotational lines were observed in the 145-300 nm region from atmospheric pressure electron-beam excited argon-hydrogen plasmas. The unprecedented energy spacing of  $4^2$  times that of hydrogen established the internuclear distance as 1/4 that of  $H_2$  and identified  $H_2(1/4)$ .

The predicted products of alkali catalyst  $K$  are  $H^-(1/4)$  which form  $KH^*X$ , a novel alkali halide ( $X$ ) hydride compound, and  $H_2(1/4)$  which may be trapped in the crystal. The  $^1H$  MAS NMR spectrum of novel compound  $KH^*Cl$  relative to external tetramethylsilane (TMS) showed a large distinct upfield resonance at -4.4 ppm corresponding to an absolute resonance shift of -35.9 ppm that matched the theoretical prediction of  $H^-(1/p)$  with  $p = 4$ . The predicted frequencies of ortho and para- $H_2(1/4)$  were observed at 1943  $cm^{-1}$  and 2012  $cm^{-1}$  in the high resolution FTIR spectrum of  $KH^*I$  having a -4.6 ppm NMR peak assigned to  $H^-(1/4)$ . The 1943/2012  $cm^{-1}$ -intensity ratio matched the characteristic ortho-to-para-peak-intensity ratio of 3:1, and the ortho-para splitting of 69  $cm^{-1}$  matched that predicted.  $KH^*Cl$  having  $H^-(1/4)$  by NMR was incident to the 12.5 keV electron-beam which excited similar emission of interstitial  $H_2(1/4)$  as observed in the argon-hydrogen plasma.  $KNO_3$  and Raney nickel were used as a source of  $K$  catalyst and atomic hydrogen, respectively, to produce the corresponding exothermic reaction. The energy balance was  $\Delta H = -17,925 \text{ kcal/mole } KNO_3$ , about 300 times that expected for the most energetic known chemistry of  $KNO_3$ , and  $-3585 \text{ kcal/mole } H_2$ , over 60 times the hypothetical maximum enthalpy of  $-57.8 \text{ kcal/mole } H_2$  due to combustion of hydrogen with atmospheric oxygen, assuming the maximum possible  $H_2$  inventory. The reduction of  $KNO_3$  to water, potassium metal, and  $NH_3$  calculated from the heats of formation only releases  $-14.2 \text{ kcal/mole } H_2$  which can not account for the observed heat; nor can hydrogen combustion. But, the results are consistent with the formation of  $H^-(1/4)$  and  $H_2(1/4)$  having enthalpies of formation of over 100 times that of combustion.

110. R. L. Mills, J. He, Z. Chang, W. Good, Y. Lu, B. Dhandapani,  
"Catalysis of Atomic Hydrogen to Novel Hydrides as a New Power  
Source," Prepr. Pap.-Am. Chem. Soc., Div. Fuel Chem. 2005, 50(2).

Plasmas of certain catalysts such as  $K^+$ ,  $Sr^+$ , and  $Ar^+$  mixed with hydrogen were studied for evidence of a novel energetic reaction. These hydrogen plasmas called resonant transfer- or rt-plasmas were observed to form at low temperatures (e.g.  $\approx 10^3 K$ ) and an extraordinary low field strengths of about 1-2 V/cm. Time-dependent line broadening of the H Balmer  $\alpha$  line was observed corresponding to extraordinarily fast H (25 eV). Intense hydrogen Lyman emission, a stationary inverted Lyman population, excessive afterglow duration, highly energetic hydrogen atoms, characteristic alkali-ion emission due to catalysis, predicted novel spectral lines, and the measurement of a power beyond any conventional chemistry were also observed. Using a number of spectroscopic and analytical techniques, the reaction products were identified as atoms with energies that are an extension of the Rydberg series to lower states as well as the corresponding molecules and hydride ions. The results show the feasibility of this highly exothermic reaction as a new energy source.

## **Section 12**

Continuing its error-plagued analysis, the Committee incorrectly asserts on page 3 of the present Advisory Action:

With respect to applicant's assertion on pages 58-95 of the present response that there are 51 independent test results, a close examination of these 51 independent test results are mostly applicant's own work or those of his collaborators as stated and addressed in sections 19-25 of the ATTACHMENT IN PAPER #12 and in Part I of the attached appendix. Applicant's own work and those of his collaborators cannot be considered independent test results.

Applicant takes strong exception to these statements. The cited researchers who have repeated Applicant's experiments are independent and would not compromise their professional reputations by producing invalid data. In fact, pressure from peers, and in particular activist physicists that are out to defend quantum theory, have applied great pressure on independent validators to come to conclusions that do not support Applicant's results. Many of the researchers were not paid or very little support was provided. Some of them also came from testing laboratories for which it can not be claimed that they were collaborators. Since the technology is novel,

Applicant's employees have assisted in replications, which further supports the validity of the results. Otherwise, Applicant would avoid collaborations with outside researchers. Applicant actively seeks validation.

### **Section 13**

On page 3 of the Advisory Action, the Committee states that:

On pages 105-106 of applicant's 188 page response filed on 10/22/2004, applicant asserts that there is an enormous body of additional theoretical support that applicant has submitted for the new states of hydrogen and that the applicant has provided an enormous body of experiment evidence that lower-energy hydrogen states are produced by the disclosed catalytic reaction. However, this assertion is unrelated to the Examiner's argument that there is no theoretical or experimental support for new forms of one electron atoms having an atomic mass of at least four and having an increased binding energy greater than the binding energy of the corresponding ordinary one electron atom because these new forms of one electron atoms having an atomic mass of at least four are not hydrino atoms. Nevertheless, since applicant uses the same mathematically and scientifically flawed theory of the hydrino atom as theoretical support for one-electron atoms having an atomic mass of at least four and having an increased binding energy greater than the binding energy of the corresponding ordinary one electron atom, the Examiner remains unpersuaded that these novel forms of one electron atoms are theoretically supported or actually exist for the same reasons of record given for the hydrino atom.

Given the overwhelming body of evidence for hydrino (lower-energy states of a one-electron atom) cited in over 60 peer-reviewed journal articles and 51 independent reports, as well as the unprecedented predictability of the Mills GUT as discussed throughout this Response, including Sections 54-55, 69-70, 112, and 115 of the attached Appendix, the existence of the general case of lower-energy states of one-electron atoms is also established.

### **Section 13a**

On page 3 of the Advisory Action, the Committee states that:

On page 111 of the response, applicant asserts that there is no contradiction with respect to the enthalpy of reaction of the catalyst

throughout his specification. The Examiner remains unpersuaded because the applicant is now introducing new matter and arbitrary values into his postulated equations (not derived as explained in previous Office Actions) in order to explain his contradictions in his original disclosure.

Applicant has adequately and consistently disclosed the enthalpy of reaction of the catalyst throughout his specification. The two possibilities of  $m/2X27.2$  eV and  $mX27.2$  eV where in both cases  $m$  is an integer, are subsets of each other. This allows for the possibility that (1) the catalyst increases the central-field interaction by an integer followed by a further release of energy of an integer multiple of 13.6 eV as derived in Mills GUT and disclosed in the specification, (2) provides for the possibility that multiple species each with an ionization energy of 13.6 eV such as atomic hydrogen or oxygen can serve as the catalyst in aggregate, and (3) the possibly that the catalyst accepts the entire energy of the transition between the initial and final states. An example of a catalyst of case (3) for the transition between the  $n=1$  to the  $n=1/2$  states of atomic hydrogen that was presented in the last Response of 10/22/04 is  $Ne^+$ .

#### **Section 14**

The Committee wrongly accuses Applicant of error on page 3 of the Advisory Action, when, in fact, it has erred by arguing that:

With respect to astrophysical data as support of his hydrino theory, applicant continues to misinterpret the data of Labov and Bowyer on pages 133-138 of the present response where applicant assigns transitions observed by Labov and Bowyer as being due to the hydrino. The astrophysical data provided by Labov and Bowyer can be explained by conventional science without the need to use applicant's scientifically implausible theory of the hydrino atom. According to the document titled "Hydrocatalysis Technical Assessment, Prepared for Pacificorp, prepared by Technology Insights, dated August 2, 1996", Labov and Bowyer dispute applicant's interpretation of their data. The applicant of the present application is the founder of Hydrocatalysis Power Corporation (HPC) now known as Blacklight Power, Inc. Pages 20-21 of the document states that spectra! data taken from the reference S. Labov and S. Bowyer, "Spectral Observations of the Extreme Ultraviolet Background", The Astrophysics Journal, 371, 810 (1991), were evaluated by HPC for indications of hydrino. HPC assigned peaks in the wavelength region of 80 to 650 Å to hydrino transitions. As shown in Table 4-1 on page 21 of the document,

the HPC assignments contradict the alternative assignments made by the authors of the paper.

The Committee apparently does not seem to recognize that the explanation given by Labov and Bowyer is not credible based on discussions by the authors themselves. From Ref. #28 R. Mills, P. Ray, "Spectral Emission of Fractional Quantum Energy Levels of Atomic Hydrogen from a Helium-Hydrogen Plasma and the Implications for Dark Matter", Int. J. Hydrogen Energy, (2002), Vol. 27, No. 3, pp. 301-322:

## **B. Identification of Lower-Energy Hydrogen by Soft X-rays from Dark Interstellar Medium**

### **a. Dark Matter**

The Universe is predominantly comprised of hydrogen and a small amount of helium. These elements exist in interstellar regions of space, and they are expected to comprise the majority of interstellar matter. However, the observed constant angular velocity of many galaxies as the distance from the luminous galactic center increases can only be accounted for by the existence of nonluminous weakly interacting matter, dark matter. Dark matter exists at the cold fringes of galaxies and in cold interstellar space. It may account for the majority of the universal mass.

The identity of dark matter has been a cosmological mystery. Postulated assignments include  $t$  neutrinos, but a detailed search for signature emissions has yielded nil [49]. The search for signatures by the Cryogenic Dark Matter Search (CDMS) developed to detect theorized Weakly Interacting Massive Particles (WIMPs) has similarly yielded nil [50-51]. WIMP theory's main competitor known as MACHO theory which assigns the dark matter to Massive Compact Halo Objects (MACHOs) which rather than elusive subatomic particles comprises ordinary baryonic matter in the form of burned-out dark stars, stray planets, and other large, heavy, but dark objects that must be ubiquitous throughout the universe. However, MACHO theory has also recently been ruled out based on lack of evidence of these dark objects observable by the brief ellipses caused by them moving in front of distant stars. Only a few such objects have been observed after exhaustively searching for over five years [50, 52].

It is anticipated that the emission spectrum of the extreme ultraviolet background of interstellar matter possesses the spectral signature of dark matter. Labov and Bowyer designed a grazing incidence spectrometer to measure and record the diffuse extreme ultraviolet background [53]. The instrument was carried aboard a sounding rocket,

and data were obtained between  $80 \text{ \AA}$  and  $650 \text{ \AA}$  (data points approximately every  $1.5 \text{ \AA}$ ). Several lines including an intense  $635 \text{ \AA}$  emission associated with dark matter were observed [53] which has considerable astrophysical importance as indicated by the authors:

"Regardless of the origin, the  $635 \text{ \AA}$  emission observed could be a major source of ionization. Reynolds (1983, 1984, 1985) has shown that diffuse  $H\alpha$  emission is ubiquitous throughout the Galaxy, and widespread sources of flux shortward of  $912 \text{ \AA}$  are required. Pulsar dispersion measures (Reynolds 1989) indicate a high scale height for the associated ionized material. Since the path length for radiation shortward of  $912 \text{ \AA}$  is low, this implies that the ionizing source must also have a large scale height and be widespread. Transient heating appears unlikely, and the steady state ionization rate is more than can be provided by cosmic rays, the soft X-ray background, B stars, or hot white dwarfs (Reynolds 1986; Brushweiler & Cheng 1988). Sciama (1990) and Salucci & Sciama (1990) have argued that a variety of observations can be explained by the presence of dark matter in the galaxy which decays with the emission of radiation below  $912 \text{ \AA}$ .

The flux of  $635 \text{ \AA}$  radiation required to produce hydrogen ionization is given by  $F = \zeta_H / \sigma_\lambda = 4.3 \times 10^4 \zeta_{-13} \text{ photons cm}^{-2} \text{ s}^{-1}$ , where  $\zeta_{-13}$  is the ionizing rate in units of  $10^{-13} \text{ s}^{-1}$  per  $H$  atom. Reynolds (1986) estimates that in the immediate vicinity of the Sun, a steady state ionizing rate of  $\zeta_{-13}$  between 0.4 and 3.0 is required. To produce this range of ionization, the  $635 \text{ \AA}$  intensity we observe would have to be distributed over 7% - 54% of the sky."

The first soft X-ray background was detected and reported [54] about 25 years ago. Quite naturally, it was assumed that these soft X-ray emissions were from ionized atoms within hot gases. Labov and Bowyer also interpreted the data as emissions from hot gases. However, the authors left the door open for some other interpretation with the following statement from their introduction:

"It is now generally believed that this diffuse soft X-ray background is produced by a high-temperature component of the interstellar medium. However, evidence of the thermal nature of this emission is indirect in that it is based not on observations of line emission, but on indirect evidence that no plausible non-thermal mechanism has been suggested which does not conflict with some component of the observational evidence."

The authors also state that "if this interpretation is correct, gas at several temperatures is present." Specifically, emissions were attributed to gases in three ranges:  $5.5 < \log T < 5.7$ ;  $\log T = 6$ ;  $6.6 < \log T < 6.8$ .

The explanation proposed herein of the observed dark interstellar medium spectrum hinges on the possibility of energy states below the  $n = 1$  state, as given by Eqs. (2a) and (3). A number of experimental observations discussed in the Introduction section lead to the conclusion that atomic hydrogen can exist in fractional quantum states that are at lower energies than the traditional "ground" ( $n = 1$ ) state. The existence of fractional quantum states of hydrogen atoms explains the spectral observations of the extreme ultraviolet background emission from interstellar space [53], which may characterize dark matter as demonstrated in Table 3. (In these cases, a hydrogen atom in a fractional quantum state,  $H(n_i)$ , collides, for example, with a  $n = \frac{1}{2}$  hydrogen atom,  $H(\frac{1}{2})$ , and the result is an even lower-energy hydrogen atom,  $H(n_f)$ , and  $H(\frac{1}{2})$  is ionized.



The energy released, as a photon, is the difference between the energies of the initial and final states given by Eqs. (2a) and (3) minus the ionization energy of  $H(\frac{1}{2})$ , 54.4 eV.

Thus, lower-energy transitions of the type,

$$\Delta E = \left( \frac{1}{n_f^2} - \frac{1}{n_i^2} \right) 13.6 \text{ eV} - 54.4 \text{ eV} \quad n = 1, \frac{1}{2}, \frac{1}{3}, \frac{1}{4}, \dots, \text{ and } n_i > n_f \quad (56)$$

induced by a disproportionation reaction with  $H[\frac{a_H}{2}]$  ought to occur. The wavelength is related to  $\Delta E$  by

$$\lambda \text{ (in } \text{\AA}) = \frac{1.240 \times 10^4}{\Delta E \text{ (in eV)}} \quad (57)$$

The energies and wavelengths of several of these proposed transitions are shown in Table 2. Note that the lower energy transitions are in the soft X-ray region.

## b. The Data And Its Interpretation

In their analysis of the data, Labov and Bowyer [53] established several tests to separate emission features from the background. There were seven features (peaks) that passed their criteria. The wavelengths and other aspects of these peaks are shown in Table 3. Peaks 2 and 5

were interpreted by Labov and Bowyer as instrumental second-order images of peaks 4 and 7, respectively. Peak 3, the strongest feature, is clearly a helium resonance line:  $He(1s^1 2p^1 \rightarrow 1s^2)$ . At issue here, is the interpretation of peaks 1, 4, 6, and 7. It is proposed that peaks 4, 6, and 7 arise from the  $\frac{1}{3} \rightarrow \frac{1}{4}$ ,  $\frac{1}{4} \rightarrow \frac{1}{5}$ , and  $\frac{1}{6} \rightarrow \frac{1}{7}$  hydrogen atoms transitions given by Eq. (55). It is also proposed that peak 1 arises from inelastic helium scattering of peak 4. That is, the  $\frac{1}{3} \rightarrow \frac{1}{4}$  transition yields a 40.8 eV photon (303.9 Å). Conspicuously absent is the 256 Å (48.3 eV) line of He II which eliminates the assignment of the majority of the 303 Å line to the He II transition. When this photon strikes  $He(1s^2)$ , 21.2 eV is absorbed in the excitation to  $He(1s^1 2p^1)$ . This leaves a 19.6 eV photon (632.6 Å), peak 1. For these four peaks, the agreement between the predicted values (Table 2) and the experimental values (Table 3) is remarkable.

One argument against this new interpretation of the data is that the transition  $\frac{1}{5} \rightarrow \frac{1}{6}$  is missing—predicted at 130.2 Å by Eqs. (56-57). This missing peak cannot be explained into existence, but a reasonable rationale can be provided for why it might be missing from these data. The data obtained by Labov and Bowyer are outstanding when the region of the spectrum, the time allotted for data collection, and the logistics are considered. Nonetheless, it is clear that the signal-to-noise ratio is low and that considerable effort had to be expended to differentiate emission features from the background. This particular peak,  $\frac{1}{5} \rightarrow \frac{1}{6}$ , is likely to be

only slightly stronger than the  $\frac{1}{6} \rightarrow \frac{1}{7}$  peak (the intensities, Table 3, appear to decrease as  $n$  decreases), which has low intensity. Labov and Bowyer provided their data (wavelength, count, count error, background, and background error). The counts minus background values for the region of interest,  $130.2 \pm 5$  Å, are shown in Table 4 (the confidence limits for the wavelength of about  $\pm 5$  Å are the single-side 1 confidence levels and include both the uncertainties in the fitting procedure and uncertainties in the wavelength calibration). Note that the largest peak (count – background) is at 129.64 Å and has a *counts – background* = 8.72. The *counts – background* for the strongest signal of the other hydrino transitions are:  $n = 1/3$  to  $n = 1/4$ , 20.05;  $n = 1/4$  to  $n = 1/5$ , 11.36;  $n = 1/6$  to  $n = 1/7$ , 10.40. Thus, there is fair agreement with the wavelength and the strength of the signal. This, of course, does not mean that there is a peak at 130.2 Å. However, it is not unreasonable to conclude that a spectrum with a better signal-to-noise ratio might uncover the missing peak. With the assignment of the  $\frac{1}{5} \rightarrow \frac{1}{6}$  transition, all of the hydrogen



transitions  $\frac{1}{3} \rightarrow \frac{1}{4}$ ,  $\frac{1}{4} \rightarrow \frac{1}{5}$ ,  $\frac{1}{5} \rightarrow \frac{1}{6}$ , and  $\frac{1}{6} \rightarrow \frac{1}{7}$  are observed over the recorded spectral range, and the 632.6 Å peak is identified.

### **Section 15**

On page 3 of its Advisory Action, the Committee further argues that:

Page 21 of the document also states that Bowyer (an astrophysicist and author of the astrophysics journal paper cited above) disputed the HPC interpretation of the data and that the paper on the HPC interpretation submitted to the Astrophysical Letters and Communications was not accepted for publication. The document also states on page 21 that the low energy hydrogen concept and its implications regarding data interpretation has not received general review or acceptance by the astrophysics community. Thus, applicant's assertions regarding the existence of hydrino based on observations of radiation spectra from space, i.e., astrophysical data, have not been accepted by the astrophysics community since a more credible scientific alternative (that presented by the authors of the astrophysics paper) exists to explain the spectral data.

The explanation given by Labov and Bowyer is not credible as discussed above in Section 21 of this Response. The data matches hydrinos. The data is now published in a peer-reviewed journal: 28. R. Mills, P. Ray, "Spectral Emission of Fractional Quantum Energy Levels of Atomic Hydrogen from a Helium-Hydrogen Plasma and the Implications for Dark Matter", Int. J. Hydrogen Energy, (2002), Vol. 27, No. 3, pp. 301-322. The assignment to hydrino has further been validated by the identification of hydrino lines. Several peer-reviewed articles have been published that directly show and assign the hydrino spectra lines:

67. R. L. Mills, P. Ray, "Extreme Ultraviolet Spectroscopy of Helium-Hydrogen Plasma", J. Phys. D, Applied Physics, Vol. 36, (2003), pp. 1535-1542.
50. R. L. Mills, P. Ray, J. Dong, M. Nansteel, B. Dhandapani, J. He, "Spectral Emission of Fractional-Principal-Quantum-Energy-Level Atomic and Molecular Hydrogen", Vibrational Spectroscopy, Vol. 31, No. 2, (2003), pp. 195-213.
33. R. L. Mills, P. Ray, B. Dhandapani, M. Nansteel, X. Chen, J. He, "New Power Source from Fractional Quantum Energy Levels of Atomic

- Hydrogen that Surpasses Internal Combustion", J Mol. Struct., Vol. 643, No. 1-3, (2002), pp. 43-54.
29. R. Mills, P. Ray, "Vibrational Spectral Emission of Fractional-Principal-Quantum-Energy-Level Hydrogen Molecular Ion", Int. J. Hydrogen Energy, Vol. 27, No. 5, (2002), pp. 533-564.
28. R. Mills, P. Ray, "Spectral Emission of Fractional Quantum Energy Levels of Atomic Hydrogen from a Helium-Hydrogen Plasma and the Implications for Dark Matter", Int. J. Hydrogen Energy, (2002), Vol. 27, No. 3, pp. 301-322.

Assignments to known species and contaminants were investigated and ruled out. For example, extreme ultraviolet (EUV) spectroscopy was recorded on microwave discharges of helium with 2% hydrogen. Novel emission lines were observed with energies of  $q \cdot 13.6 \text{ eV}$ ,  $q = 1, 2, 3, 7, 9, 11$ . or  $q \cdot 13.6 \text{ eV}$ ,  $q = 4, 6, 8$  less  $21.2 \text{ eV}$  corresponding to inelastic scattering of these photons by helium atoms due to excitation of  $\text{He} (1s^2)$  to  $\text{He} (1s^1 2p^1)$ . These strong emissions are not found in any single gas plasma, and cannot be assigned to the known emission of any species of the single gases studied such as  $\text{H}$ ,  $\text{H}^-$ ,  $\text{H}_2$ ,  $\text{H}_2^+$ ,  $\text{H}_3^+$ ,  $\text{He}$ ,  $\text{He}_2^+$ , and  $\text{He}^+$ , known species of the mixture such as  $\text{He}_2^+$ ,  $\text{HeH}^+$ ,  $\text{HeH}$ ,  $\text{HHe}_2^+$ , and  $\text{HHe}_n^+$  and  $\text{He}_n$ , or possible contaminants as given in Ref. 67.

J. Phys. D is a top-tiered physics journal. The spectra were extensively peer reviewed. The publication unequivocally assigns the lines to hydrino as shown explicitly in journal article #67:

The elimination of known explanations indicate a new result. Since the novel peaks were only observed with helium and hydrogen present, new hydrogen, helium, or helium-hydrogen species are possibilities. It is well known that empirically the excited energy states of atomic hydrogen are given by Rydberg equation (Eq. (2a) for  $n > 1$  in Eq. (2b)).

$$E_n = -\frac{e^2}{n^2 8 \pi \epsilon_0 a_H} = -\frac{13.598 \text{ eV}}{n^2} \quad (2a)$$

$$n = 1, 2, 3, \dots \quad (2b)$$

The  $n = 1$  state is the "ground" state for "pure" photon transitions (i.e. the  $n = 1$  state can absorb a photon and go to an excited electronic state, but it cannot release a photon and go to a lower-energy electronic state). However, an electron transition from the ground state to a lower-energy state may be possible by a resonant nonradiative energy transfer such as multipole coupling or a resonant collision mechanism. Processes such as hydrogen molecular bond formation that occur without photons and that

require collisions are common [47]. Also, some commercial phosphors are based on resonant nonradiative energy transfer involving multipole coupling [48].

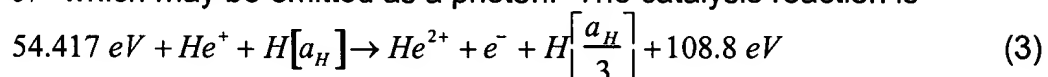
We propose that atomic hydrogen may undergo a catalytic reaction with certain atoms and ions such as  $He^+$  which singly or multiply ionize at integer multiples of the potential energy of atomic hydrogen,  $m \cdot 27.2 \text{ eV}$  wherein  $m$  is an integer. The theory was given previously [49]. The reaction involves a nonradiative energy transfer to form a hydrogen atom that is lower in energy than unreacted atomic hydrogen that corresponds to a fractional principal quantum number. That is

$$n = \frac{1}{2}, \frac{1}{3}, \frac{1}{4}, \dots, \frac{1}{p}; \quad p \text{ is an integer; } p \leq 137 \quad (2c)$$

replaces the well known parameter  $n = \text{integer}$  in the Rydberg equation for hydrogen excited states. Thus, the Rydberg states are extended to lower levels as depicted in Figure 9. The  $n = 1$  state of hydrogen and the

$n = \frac{1}{\text{integer}}$  states of hydrogen are nonradiative, but a transition between two nonradiative states is possible via a nonradiative energy transfer, say  $n = 1$  to  $n = 1/2$ . Thus, a catalyst provides a net positive enthalpy of reaction of  $m \cdot 27.2 \text{ eV}$  (i.e. it resonantly accepts the nonradiative energy transfer from hydrogen atoms and releases the energy to the surroundings to affect electronic transitions to fractional quantum energy levels). As a consequence of the nonradiative energy transfer, the hydrogen atom becomes unstable and emits further energy until it achieves a lower-energy nonradiative state having a principal energy level given by Eqs. (2a) and (2c).

The novel peaks fit two empirical relationships. In order of energy, the set comprising the peaks at  $91.2 \text{ nm}$ ,  $45.6 \text{ nm}$ ,  $30.4 \text{ nm}$ ,  $13.03 \text{ nm}$ ,  $10.13 \text{ nm}$ , and  $8.29 \text{ nm}$  correspond to energies of  $q \cdot 13.6 \text{ eV}$  where  $q = 1, 2, 3, 7, 9, 11$ . In order of energy, the set comprising the peaks at  $37.4 \text{ nm}$ ,  $20.5 \text{ nm}$ , and  $14.15 \text{ nm}$  correspond to energies of  $q \cdot 13.6 - 21.21 \text{ eV}$  where  $q = 4, 6, 8$ . These lines can be explained as electronic transitions to fractional Rydberg states of atomic hydrogen given by Eqs. (2a) and (2c) wherein the catalytic system involves helium ions because the second ionization energy of helium is  $54.417 \text{ eV}$ , which is equivalent to  $2 \cdot 27.2 \text{ eV}$ . In this case,  $54.417 \text{ eV}$  is transferred nonradiatively from atomic hydrogen to  $He^+$  which is resonantly ionized. The electron decays to the  $n = 1/3$  state with the further release of  $54.417 \text{ eV}$  which may be emitted as a photon. The catalysis reaction is



And, the overall reaction is

$$H[a_H] \rightarrow H\left[\frac{a_H}{3}\right] + 54.4 \text{ eV} + 54.4 \text{ eV} \quad (5)$$

Since the products of the catalysis reaction have binding energies of  $m \cdot 27.2 \text{ eV}$ , they may further serve as catalysts. Thus, further catalytic transitions may occur:  $n = \frac{1}{3} \rightarrow \frac{1}{4}$ ,  $\frac{1}{4} \rightarrow \frac{1}{5}$ , and so on.

Electronic transitions to Rydberg states given by Eqs. (2a) and (2c) catalyzed by the resonant nonradiative transfer of  $m \cdot 27.2 \text{ eV}$  would give rise to a series of emission lines of energies  $q \cdot 13.6 \text{ eV}$  where  $q$  is an integer. It is further proposed that the photons that arise from hydrogen transitions may undergo inelastic helium scattering. That is, the catalytic reaction

$$H[a_H] \xrightarrow{\text{He}^+} H\left[\frac{a_H}{3}\right] + 54.4 \text{ eV} + 54.4 \text{ eV} \quad (6)$$

yields  $54.4 \text{ eV}$  by Eq. (4) and a photon of  $54.4 \text{ eV}$  ( $22.8 \text{ nm}$ ). Once emitted, the photon may be absorbed or scattered. When this photon strikes  $\text{He}(1s^2)$ ,  $21.2 \text{ eV}$  may be absorbed in the excitation to  $\text{He}(1s^1 2p^1)$ . This leaves a  $33.19 \text{ eV}$  ( $37.4 \text{ nm}$ ) photon peak and a  $21.21 \text{ eV}$  ( $58.4 \text{ nm}$ ) photon from  $\text{He}(1s^1 2p^1)$ . Thus, for helium the inelastic scattered peak of  $54.4 \text{ eV}$  photons from Eq. (3) is given by

$$E = 54.4 \text{ eV} - 21.21 \text{ eV} = 33.19 \text{ eV} \quad (37.4 \text{ nm}) \quad (7)$$

A novel peak shown in Figures 2-4 was observed at  $37.4 \text{ nm}$ .

Furthermore, the intensity of the  $58.4 \text{ nm}$  peak corresponding to the spectra shown in Figure 4 was about 60,000 photons/sec. Thus, the transition  $\text{He}(1s^2) \rightarrow \text{He}(1s^1 2p^1)$  dominated the inelastic scattering of EUV peaks. The general reaction is

$$\text{photon}(h\nu) + \text{He}(1s^2) \rightarrow \text{He}(1s^1 2p^1) + \text{photon}(h\nu - 21.21 \text{ eV}) \quad (8)$$

The two empirical series may be combined—one directly from Eqs. (2a, 2c) and the other indirectly with Eq. (8). The energies for the novel lines in order of energy are  $13.6 \text{ eV}$ ,  $27.2 \text{ eV}$ ,  $40.8 \text{ eV}$ ,  $54.4 \text{ eV}$ ,  $81.6 \text{ eV}$ ,  $95.2 \text{ eV}$ ,  $108.8 \text{ eV}$ ,  $122.4 \text{ eV}$  and  $149.6 \text{ eV}$ . The corresponding peaks are  $91.2 \text{ nm}$ ,  $45.6 \text{ nm}$ ,  $30.4 \text{ nm}$ ,  $37.4 \text{ nm}$ ,  $20.5 \text{ nm}$ ,  $13.03 \text{ nm}$ ,  $14.15 \text{ nm}$ ,  $10.13 \text{ nm}$ , and  $8.29 \text{ nm}$ , respectively. Thus, the identified novel lines correspond to energies of  $q \cdot 13.6 \text{ eV}$ ,  $q = 1, 2, 3, 7, 9, 11$ . or  $q \cdot 13.6 \text{ eV}$ ,  $q = 4, 6, 8$  less  $21.2 \text{ eV}$  corresponding to inelastic scattering of these photons by helium atoms due to excitation of  $\text{He}(1s^2)$  to  $\text{He}(1s^1 2p^1)$ . The values of  $q$  observed are consistent with those expected based on Eq. (5) and the subsequent autocatalyzed reactions as discussed previously [50]. The broad satellite peak at  $44.2 \text{ nm}$  shown in Figure 2-4 is consistent with the reaction mechanism of a nonradiative transfer to a catalyst followed by emission. There is remarkable agreement between the data and the proposed transitions to fractional Rydberg states and these lines inelastically scattered by helium according to Eq. (8). All other peaks

could be assigned to He I, He II, second order lines, or atomic or molecular hydrogen emission. No known lines of helium or hydrogen explain the  $q \cdot 13.6 \text{ eV}$  related set of peaks.

#### **Section 16**

[Purposefully omitted.]

#### **Section 17**

The Committee also wrongly asserts on page 3 of the Advisory Action that:

Applicant continues to misinterpret quantum mechanics (QM) on pages 119+ of the present response. These misinterpretations are rebutted in Part II of the attached appendix and have been rebutted in all of the arguments made by the Examiner in the previous Office actions and previous attached appendixes to the Office actions.

Applicant responds to the assertions in Part II in his corresponding Appendix submitted herewith.

#### **Section 18**

On pages 3-4 of the present Advisory Action, the Committee commits further error in asserting that:

Applicant's arguments on pages 148-157 of the present response with respect to the plasma references cited by the Examiner show that he has seriously misinterpreted the Examiner's statements and that he does not understand the crucial point that the Examiner made in the previous office action regarding applicant's anomalous line broadening data. The Examiner's main point was that microwave plasma experiments containing hydrogen and one of Ar or He do not cause anomalous line broadening in contrast to applicant's data and applicant does not explain why the microwave experiments of Luque and Luggenhoelscher do not cause anomalous line broadening even though hydrogen and Ar or He (H, Ar, and He are regarded as a catalyst in applicant's experiments and theory) are present in the experiments. According to applicant's arguments and his data, a plasma containing Ar and hydrogen would show anomalous line broadening due to the resonance transfer mechanism of Ar with hydrogen but this anomalous line broadening effect was absent in the microwave experiments of the prior art cited by the Examiner.

It is crucial to note Luque did not observe Ar catalyzing hydrogen

atoms in his microwave discharge experiments (that would be evidenced by anomalous line broadening according to applicant's arguments) in direct contrast to applicant's microwave discharge experiments with Ar and hydrogen and applicant does not deny that Luque did not observe anomalous line broadening in his microwave experiments containing Ar and hydrogen.

The Committee's arguments have no merit whatsoever. The broadening in Applicant's work was observed in an Evenson microwave cell that is one of the best known cavities for producing ions required in the case of the hydrino reaction since  $\text{Ar}^+$  and  $\text{He}^+$  are the catalyst. The broadening was found to be dependent on time and flow rate that are indicative of a chemical reaction. In contrast, Luque's experiments did not use an Evenson cavity and were not performed with variation the flow rate or run for long duration.

The Committee is changing its story and attributing it to a misunderstanding on the part of Applicant, which is not true. The Committee's position is clear from its prior statement, in which it incorrectly argued that broadening was observed and could be attributed to conventional explanations:

Applicant points out that the reasons for Balmer line broadening are discussed in many articles, and that the observed broadening is in excess in what can be expected from known sources thereof. This is not persuasive because broadening may be caused by various means including those taken into account by applicant, and those not taken into account. In the enclosed article by Luggenholscher, et. al. , broadening equivalent to that found by applicant, shown in figure 1, is accounted for by conventionally known explanations such as the Stark effect. The enclosed article by Luque et. al. accounts for H $\alpha$  broadening using two Lorentzian mechanisms (Stark and Van der Waals) and two Gaussian mechanisms (Doppler and instrumental).

## **Section 19**

The Committee continues to misapprehend the evidence of record as demonstrated by the following arguments on page 4 of the Advisory Action:

Applicant has also seriously misinterpreted the Examiner's plasma arguments by incorrectly comparing the Examiner's cited line broadening of 0.16 nm in the prior art with >100 eV hot H found in applicant's rt-plasmas. Due to applicant's misinterpretation of the Examiner's

statements, the data of the prior art and his own data, he incorrectly states that the line broadening observed in Luggenhoelscher is off by six orders of magnitude as compared to applicant's observed line widths on page 169 of the present response. The applicant's misinterpretation of the Examiner's remarks on his plasma data, those of the cited prior art, and his own data are detailed on pages 6-12 of the attached appendix (Part I, section B (subsections d.1-d.6, e, and f)).

Again, Applicant strongly disagrees. A broadening of 0.16 nm corresponds to 10 eV. The observation of such large broadening with a catalyst (Ar+) and hydrogen in a microwave cell confirms Applicant's result. Such broadening can not be explained by the Stark effect or other conventional explanations. Specifically, from 49. R. L. Mills, P. Ray, B. Dhandapani, J. He, "Comparison of Excessive Balmer  $\alpha$  Line Broadening of Inductively and Capacitively Coupled RF, Microwave, and Glow Discharge Hydrogen Plasmas with Certain Catalysts", IEEE Transactions on Plasma Science, Vol. 31, No. (2003), pp. 338-355:

Stark broadening of hydrogen lines in plasmas can not be measured at low electron densities using conventional emission or absorption spectroscopy because it is hidden by Doppler broadening. In the case of the Lyman  $\alpha$  line, the Stark width exceeds the Doppler width only at  $n_e > 10^{17} \text{ cm}^{-3}$  for temperatures of about  $10^4 \text{ K}$  [34]. Gigosos and Cardenoso [35] give the observed Balmer  $\alpha$  Stark broadening for plasmas of hydrogen with helium or argon as a function of the electron temperature and density. For example, the Stark broadening of the Balmer  $\alpha$  line recorded on a  $H + He^+$  plasma is only 0.033 nm with  $T_e = 20,000 \text{ K}$  and  $n_e = 1.4 \times 10^{14} \text{ cm}^{-3}$ .

The relationship between the Stark broadening  $\Delta\lambda_s$  of the Balmer  $\beta$  line in nm, the electron density  $n_e$  in  $\text{m}^{-3}$ , and the electron temperature  $T_e$  in K is

$$\log n_e = C_0 + C_1 \log(\Delta\lambda_s) + C_2 [\log(\Delta\lambda_s)]^2 + C_3 \log(T_e) \quad (5)$$

where  $C_0 = 22.578$ ,  $C_1 = 1.478$ ,  $C_2 = -0.144$ , and  $C_3 = 0.1265$  [36]. From Eq. (5), to get a Stark broadening of only 0.1 nm with  $T_e = 9000 \text{ K}$ , an electron density of about  $n_e \sim 3 \times 10^{15} \text{ cm}^{-3}$  is required, compared to that of the argon-hydrogen plasma of  $< 10^9 \text{ cm}^{-3}$  determined using a compensated Langmuir probe, over six orders of magnitude less. Regional maxima in electron densities that could give rise to Stark broadening was eliminated as a possibility. The measured electron densities did not exceed  $10^9 \text{ cm}^{-3}$ , and the axial variation was weak, showing less than a factor of two

change throughout the brightest region of the plasma. The high mass diffusivity of all of the species present made it unlikely that a large density gradient existed anywhere in the plasma at steady state. This result was also evident by the good fit to a Gaussian profile recorded on the argon-hydrogen plasma rather than a Voigt profile as shown in Figure 10. In addition, the line broadening for Balmer  $\beta$ ,  $\gamma$ , and  $\delta$  was comparable to that of Balmer  $\alpha$ ; whereas, an absence of broadening beyond the instrument width was observed for the lines of argon or helium species such as the 667.73 nm and 591.2 nm Ar I lines and 667.816 nm and 587.56 nm He I lines. Thus, the Stark broadening was also insignificant.

A linear Stark effect arises from an applied electric field that splits the energy level with principal quantum number  $n$  into  $(2n - 1)$  equidistant sublevels. The magnitude of this effect given by Videnovic et al. [8] is about  $2 \times 10^{-2} \text{ nm} / \text{kV} \cdot \text{cm}^{-1}$ . No appreciable applied electric field was present in our study; thus, the linear Stark effect should be negligible. The absence of broadening of the noble gas lines and the hydrogen lines of the controls confirmed the absence of a strong electric field. No charged resonator cavity surfaces were present since the plasmas was contained in a quartz tube with the cavity external to the tube. A microwave E-mode field does exist in the Evenson cavity that is a function of the reflected power [37-38], and the catalysis reaction is dependent on this field as discussed previously [39]. However, there is no cathode fall region and the magnitude of the microwave field is comparably much less than that found in the cathode fall region of a glow discharge cell.

The broadening is unequivocally Doppler broadening as discussed in Reference Nos. 49 and 37. The microwave-field broadening reported in the Committee's cited Luque et al paper is six orders of magnitude too low to account for the broadening reported by Applicant (e.g. Ref. #49).

Specifically, the broadening reported in the Committee's cited reference URL: <http://www.phys.tue.nl/FLTPD/Luggenhoelscher.pdf> is 0.37 cm<sup>-1</sup> with no field and 3.7 cm<sup>-1</sup> with the application of the microwave field. The energies corresponding to these widths are  $4.5 \times 10^{-5} \text{ eV}$  and  $4.5 \times 10^{-4} \text{ eV}$ , respectively, which is absolutely negligible compared to the >10 eV hot H found in rt-plasmas. The microwave field can not explain Applicant's results. The Committee's alternative explanation is off by six orders of magnitude. Thus, the Stark and microwave field effects originally argued by the Committee are eliminated as the basis of the broadening observed in Applicant's cells.



## **Section 20**

The Committee further mistakenly argues on page 4 of the present Advisory Action that:

As explained in Part I of the attached appendix, applicant's assertion of anomalous line broadening in his plasma data due to the resonance transfer (r-t) mechanism is not plausible because there are alternative, conventional explanations for this increased line broadening. The plasma sheath effect offered by the prior art is a more plausible explanation for the increased line broadening than applicant's rt mechanism involving the postulated hydrino (see E. Kovacevic et al., "The Dynamic Response of the Plasma on the Dust Formation in Ar/C<sub>2</sub>H<sub>2</sub> RF Discharges" at [http://www.icpig.uni-greifswald.de/proceedings/data/Kovacevic\\_I](http://www.icpig.uni-greifswald.de/proceedings/data/Kovacevic_I) and Cvetanovic et al., *J. Appl. Phys.* 97, 033302-1, 2005 that are both cited in the attached appendix).

Applicant measures line broadening in regions where there is no electric field, which eliminates the "plasma sheath" explanation. See 51. **J. Phillips, C-K Chen, R. Mills, "Evidence of catalytic Production of Hot Hydrogen in RF Generated Hydrogen/Argon Plasmas", IEEE Transactions on Plasma Science, submitted.**

J. Phillips, Distinguished National Laboratory Professor at Los Alamos National Laboratory and University of New Mexico, performed verification studies of line broadening in catalysis plasmas. This is the third in a series of papers by our team on apparently anomalous Balmer series line broadening in hydrogen containing RF generated, low pressure (< 600 mTorr) plasmas. In this paper the selective broadening of the atomic hydrogen lines in pure H<sub>2</sub> and Ar/H<sub>2</sub> mixtures in a large "GEC" cell (36 cm length X 14 cm ID) was mapped as a function of position, H<sub>2</sub>/Ar ratio, time, power, and pressure. Several observations regarding the selective line broadening were particularly notable as they are unanticipated on the basis of earlier models. First, the anomalous broadening of the Balmer lines was found to exist throughout the plasma, and not just in the region between the electrodes. Second, the broadening was consistently a complex function of the operating parameters particularly gas composition (highest in pure H<sub>2</sub>) position, power and pressure. Clearly not anticipated by earlier models were the findings that under some conditions the highest concentration of "hot" (>10 eV) hydrogen was found at the entry end, and not in the high field region between the electrodes and that in other conditions, the hottest H was at the (exit) pump (also grounded electrode) end. Third, excitation and electron temperatures were less than one eV in all regions of the plasma not directly adjacent (>1mm) to the electrodes, providing additional evidence that the energy for broadening, contrary to standard models, is not obtained from the field. Fourth, in contrast to our

earlier studies of hydrogen/helium and water plasmas, we found that in some conditions 98% of the atomic hydrogen was in the "hot" state throughout the GEC cell. Virtually every operating parameter studied impacted the character of the hot H atom population, and clearly second and third order effects exist, indicating a need for experimental design. Some non-field mechanisms for generating hot hydrogen atoms, specifically those suggested by Mills' CQM model, are outlined.

This paper also evaluates the broadening as a function of angle with respect to the electrode. No relationship is observed, which eliminates the "sheath" explanation. Furthermore, the broadening is essentially independent of the electric field across any sheath as well as being equally observed from all directions and observed in the no-field regions. The "sheath" explanation is eliminated on all possible parameters.

The line broadening is independent of position, but dependent on time as shown in:

95. R. L. Mills, P. Ray, B. Dhandapani, "Excessive Balmer  $\alpha$  Line Broadening of Water-Vapor Capacitively-Coupled RF Discharge Plasmas" IEEE Transactions on Plasma Science, submitted.

These observations are characteristic of a chemical reaction, and eliminate the "sheath" explanation. Furthermore, broadening is observed in rt-plasma cells that comprise a filament heater only that serves to heat the catalyst and dissociate molecular hydrogen. There is no strong field as reported in the following papers:

109. R. L. Mills, M. Nansteel, J. He, B. Dhandapani, "Low-Voltage EUV and Visible Light Source Due to Catalysis of Atomic Hydrogen", J. Plasma Physics, submitted.
108. R. L. Mills, J. He, M. Nansteel, B. Dhandapani, "Catalysis of Atomic Hydrogen to New Hydrides as a New Power Source", International Journal of Global Energy Issues (IJGEI), Special Edition in Energy Systems, submitted.
81. R. Mills, P. Ray, B. Dhandapani, W. Good, P. Jansson, M. Nansteel, J. He, A. Voigt, "Spectroscopic and NMR Identification of Novel Hydride Ions in Fractional Quantum Energy States Formed by an Exothermic Reaction of Atomic Hydrogen with Certain Catalysts", European Physical Journal-Applied Physics, Vol. 28, (2004), pp. 83-104.

54. R. L. Mills, P. Ray, "Stationary Inverted Lyman Population Formed from Incandescently Heated Hydrogen Gas with Certain Catalysts", J. Phys. D, Applied Physics, Vol. 36, (2003), pp. 1504-1509.
51. R. Mills, P. Ray, R. M. Mayo, "CW HI Laser Based on a Stationary Inverted Lyman Population Formed from Incandescently Heated Hydrogen Gas with Certain Group I Catalysts", IEEE Transactions on Plasma Science, Vol. 31, No. 2, (2003), pp. 236-247.
46. R. L. Mills, P. Ray, "Stationary Inverted Lyman Population and a Very Stable Novel Hydride Formed by a Catalytic Reaction of Atomic Hydrogen and Certain Catalysts", Optical Materials, Vol. 27, (2004), pp. 181-186.
42. R. L. Mills, P. Ray, "A Comprehensive Study of Spectra of the Bound-Free Hyperfine Levels of Novel Hydride Ion  $H^{-}(1/2)$ , Hydrogen, Nitrogen, and Air", Int. J. Hydrogen Energy, Vol. 28, No. 8, (2003), pp. 825-871.

## **Section 21**

The Committee further argues on page 4 of its Advisory Action:

In the Cvetanovic reference cited in the attached appendix, those of ordinary skill in the art in the plasma field do not agree with the mechanism proposed by the applicant to explain the anomalous broadening in the hydrogen Balmer alpha line (see abstract and pages 033302-1 to 033302-2 of the reference). Instead, the reference states that the excessive Balmer alpha line broadening is related to the collisions of the fast hydrogen atoms with molecular hydrogen and can be explained by the conventional collision model (CM).

The Committee's misplaced reliance on Cvetanovic et. al. is extremely troubling since this article appears to be a thinly veiled hatchet-job in an attempt to discredit Applicant. Cvetanovic et. al. propose that the energy required to selectively heat atomic hydrogen to extraordinary temperatures comes from the field acceleration of ionic species. The paper **J. Phillips, C-K Chen, R. Mills, "Evidence of catalytic Production of Hot Hydrogen in RF Generated Hydrogen/Argon Plasmas", IEEE Transactions on Plasma Science, submitted** demonstrates that no model of that type is viable. Broadening existed throughout the plasma, and not only in the region of high fields. In fact, it was found that the nature of the broadening does not correlate to field strength whatsoever. All predictions that orientation of the observer relative to the field will impact the nature of the observed broadening were disproved. For example, observation parallel to the field should yield broad lines that are red or blue shifted, and

not symmetric, as a function of the orientation of the observer relative to the cathode. The results were always symmetrical. Also, there is every reason to suggest that the magnitude of the broadening observed perpendicular to the direction of the field should be less than that parallel to the field. It was independent of the viewing direction. Philips et al. provide a data set, remarkably thorough relative to that of previously published work, that shows the shape of the Balmer lines perpendicular to the field, parallel to the field and in regions with no field are remarkably similar under many conditions. This data also makes all forms of the "field acceleration" models of broadening untenable.

The Cvetanovic article contains some data consistent with the statements made above. For example, in Figure 4 of that article there is data that shows that the broadening of the Ha peak is independent of the orientation of observation relative to the field direction.

Unfortunately, although the data agrees with that collected and reported by Philips et al., the text of the article contains some clear misrepresentations. Specifically, the data regarding the fit of Figure 4c (but notably not that of Figures 4a and 4b) is missing. It also appears to the careful reader that Fig. 4c was printed in a larger format than Figures 4a and 4b, and hence gives the appearance to the casual reader that the broadening in Figure 4c is larger than that of figures 4a and 4b. In fact, the broadening of Figure 4c is virtually identical to that measured for Figures 4a and 4b.

Perhaps the authors of the aforementioned paper did not want readers to have direct access to the data? Indeed, the data contradicts statements made in the Abstract:

Large excessive Balmer alpha line broadening in pure hydrogen and its dependence upon the direction of observation with respect to the electric field is in contradiction to the resonance transfer model, proposed by Mills et al. in several publications (see, e.g., IEEE Trans. Plasma Sci. 31, 338 2003.)

Putting such a statement in the Abstract is a clear indication of the intent of the authors, i.e. to disprove the RT model despite the data to the contrary. Indeed, since the data they present shows that there is no dependence of line broadening upon the direction of observation with respect to the electric fields, the above statement in the

abstract is false. The attack on Applicant's paper thus has the appearance of malice.

The sense of malicious mischief is increased because of additional directly false statements, such as this one from the conclusions:

The presence of large excessive Ha line broadening in pure hydrogen and several experimental results, such as the importance of the direction of observation with respect to the electric field and exponential decay of excessive broadened Balmer line intensity in the negative glow, are in contradiction to the resonance transfer model.<sup>5,6</sup>

Not only is the data contained in the paper in direct contradiction to the statement regarding "direction of observation", there is in fact not a shred of data presented that refutes any of the predictions of CQM. It is unfortunate that these statements were even published, but then to be touted by the USPTO is outrageous.

## **Section 22**

The Committee further relies improperly on the Cvetanovic et. al. reference in arguing, on page 4 of the Advisory Action, that:

The Cvetanovic reference also states that two independent experiments performed simultaneously in two different laboratories have not been able to reproduce the applicant's excessively broad Balmer line shapes in microwave induced discharge (MID) experiments (see page 033302-2, left hand column). These laboratories did not detect excessive broadening in the MID experiments.

Applicant agrees with the data reported in the Cvetanovic paper that the line energy of the hot H is independent of the direction relative to the electric field, it is symmetrical at all angles and independent of pressure and exists in region of low or no field. The results confirm the catalysis of hydrogen, not field acceleration as the source of the broadened H lines.

It is not clear that Jovicevic et al. failed to observe the phenomenon of fast H in microwave plasmas. In S. Jovicevic, M. Ivkovic, N. Konjevic, S. Popovic, L. Vuskovic, J. Appl. Phys. 95, 24 (2004) the authors state that it impossible to form fast H in microwave plasmas since there is no field which the ions can couple to, but at the conclusion they hedge: "In Ar-H<sub>2</sub> discharges, a limited broadening in the wings of the

lines coupled be attributed to less than 0.01% fast hydrogen with kinetic energy less than 10 eV". This is very significant given that the electrons heat the atoms and the electron temperature is typically less than 1 eV in these plasmas.

Jovicevic et al used pulsed operation. Others using the same apparatus in continuous operation, as in the case of Applicant's work and following Applicant's direction regarding the dependence on operating conditions and long duration operation, have reproduced Applicant's results:

44. **A. J. Marchese, P. M. Jansson, J. L. Schmalzel, "The BlackLight Rocket Engine", Phase I Final Report, NASA Institute for Advanced Concepts Phase I, May 1-November 30, 2002, [http://www.niac.usra.edu/files/studies/final\\_report/pdf/752Marchese.pdf](http://www.niac.usra.edu/files/studies/final_report/pdf/752Marchese.pdf).**

Rowan University Professors A. J. Marchese, P. M. Jansson, J. L. Schmalzel performed verification studies as visiting researchers at BlackLight Power, Cranbury, NJ. The prior reported results of BlackLight Power, Inc. of extraordinarily broadened atomic hydrogen lines, population inversion, lower-energy hydrogen lines, and excess power measured by water bath calorimetry were replicated. The application of the energetic hydrogen to propulsion was studied.

Specifically, the data supporting hydrinos was replicated. See i.) BlackLight Process Theory (pp. 10-12) which gives the theoretical energy levels for hydrinos and the catalytic reaction to form hydrinos,

ii.) Unique Hydrogen Line Broadening in Low Pressure Microwave Water Plasmas (pp. 25-27, particularly Fig. 21) which shows that in the same microwave cavity driven at the same power, the temperature of the hydrogen atoms in the microwave plasma where the hydrino reaction was active was 50 times that of the control based on the spectroscopic line widths,

iii.) Inversion of the Line Intensities in Hydrogen Balmer Series (pp. 27-28, particularly Fig. 22) which shows for the first time in 40 years of intensive worldwide research that atomic hydrogen population inversion was achieved in a steady state plasma and supports the high power released from the reaction of hydrogen to form hydrinos,

iv.) Novel Vacuum Ultraviolet (VUV) Vibration Spectra of Hydrogen Mixture Plasmas (pp. 28-29, particularly Fig. 23) which shows a novel vibrational series of lines in a helium-hydrogen plasmas at energies higher than any known vibrational series and it identically matches the theoretical prediction of 2 squared times the corresponding vibration of the ordinary hydrogen species, and

v.) Water Bath Calorimetry Experiments Showing Increased Heat Generation (pp. 29-30, particularly Fig. 25) that shows that with exactly the same system and same input power, the heating of the water reservoir absolutely measured to 1% accuracy was equivalent to 55 to 62 W with the catalyst-hydrogen mixture compared to 40 W in the control without the possibility of the reaction to form hydriuos.

42. **R. L. Mills, P. C. Ray, R. M. Mayo, M. Nansteel, B. Dhandapani, J. Phillips, "Spectroscopic Study of Unique Line Broadening and Inversion in Low Pressure Microwave Generated Water Plasmas", J. Plasma Phys., in press.**

J. Phillips, Distinguished National Laboratory Professor at Los Alamos National Laboratory and University of New Mexico, performed verification studies as a visiting researcher at BlackLight Power, Cranbury, NJ. It was demonstrated that low pressure ( $\sim 0.2$  Torr) water vapor plasmas generated in a 10 mm ID quartz tube with an Evenson microwave cavity show at least two features which are not explained by conventional plasma models. First, significant ( $> 2.5 \text{ \AA}$ ) hydrogen Balmer  $\alpha$  line broadening was recorded, of constant width, up to 5 cm from the microwave coupler. Only hydrogen, and not oxygen, showed significant line broadening. This feature, observed previously in hydrogen-containing mixed gas plasmas generated with high voltage DC and RF discharges was explained by some researchers to result from acceleration of hydrogen ions near the cathode. This explanation cannot apply to the line broadening observed in the (electrodeless) microwave plasmas generated in this work, particularly at distances as great as 5 cm from the microwave coupler. Second, dramatic inversion of the line intensities of both the Lyman and Balmer series, again, at distances up to 5 cm from the coupler were observed. The dramatic line inversion suggests the existence of a hitherto unknown source of pumping of the optical power in plasmas. Finally, it is notable that other aspects of the plasma including the  $OH^*$  rotational temperature and low electron concentrations are quite typical of plasmas of this type.

### **Section 23**

The Committee presents further misplaced arguments based on the Cvetanovic et. al. reference, stating on page 4 of the Advisory Action:

As pointed out on page 33302-2 of the Cvetanovic reference, applicant's own plasma results contradict his own theory since his plasma data containing pure  $H_2$  only does not show any anomalous line broadening that is inconsistent with his own theory and argument that two hydrogen atoms (that act as a catalyst) can provide a net enthalpy equal to the potential energy of the hydrogen atom (27.2 eV) which is the necessary

resonance energy for a third hydrogen atom. As shown in Figures 6, 8, 12, and 14 of applicant's document entitled "Comparison of Excessive Balmer  $\alpha$  Line Broadening of Inductively and Capacitively Coupled RF, Microwave, and Glow Discharge Hydrogen Plasmas with Certain Catalysts" that was submitted to IEEE Transactions on Plasma Science and cited in the information disclosure statement filed on 7/2002, there is no anomalous line broadening for microwave plasmas of pure hydrogen alone which contradict applicant's own theory and arguments.

Once again, the Committee fails to comprehend that Cvetanovic et al.'s results and Applicant's results support the CQM theory. The following is the exact self explanatory text from Applicant's IEEE paper:

The hydrogen atom energy in plasmas of hydrogen mixed with argon or helium were about 50-100 times that observed for the control plasmas such as hydrogen mixed with xenon or hydrogen alone. Even so, the observed  $\approx 4$  eV energy of the latter plasmas was still well above the resolution capability of the instrument, and surprisingly it was appreciably above that expected based on the electron temperature of 1-2 eV. The observation of an elevated hydrogen atom energy for pure hydrogen plasmas and mixtures containing hydrogen with the unusual absence of an elevated energy of any other gas present has been observed before. For example, using a GEC RF cell Radovanov et al. [12] observed that the structure of the  $H_\alpha$  line emission from a pure  $H_2$  discharge showed a slow component with an average energy of 0.2 eV and a broadened component of 8.0 eV. Very high energies have also been observed. Hydrogen line broadening corresponding to 123 eV has been observed with hydrogen plasmas maintained in a GEC RF cell [11]. Extraordinary line broadening near the cathode corresponding to fast H with  $>300$  eV has only been observed in the case of discharges of hydrogen or in hydrogen mixtures. This phenomenon is not observed in discharges of pure noble gases [8, 11, 29-32]. In the case of production of fast H, the intensity may be low due to efficient collisional energy exchange with dissociative excitation of molecular hydrogen [33]. In a glow discharge fast H is formed and excited predominantly near the electrode surfaces. The emission from fast H formed at the cathode is also not expected to extend significantly into the bulk of an  $H_2$  discharge because of quenching of  $H(n=3)$  by collisions with  $H_2$  [12]. Again, this unusual effect was attributed to electric field acceleration of positive hydrogen ions in the cathode fall region.

In our microwave hydrogen plasma, no such strong field exists. But, the conditions for an rt-plasmas are met. Since the ionization energy of hydrogen is 13.6 eV, two hydrogen atoms can provide a net enthalpy equal to the potential energy of the hydrogen atom, 27.2 eV—the



necessary resonance energy, for a third hydrogen atom. On this basis, the unusual observation of the H energy slightly above the electron temperature is expected. The effect is expected to be more pronounced at higher greater hydrogen concentrations such as those produced near or on the cathode in RF and glow discharge cells.

#### **Section 24**

Finally, the Committee argues on page 4 of the Advisory Action:

Thus, in view of the serious flaws in applicant's theoretical foundation for his invention, the lack of independent, reproducible experiments to verify the existence of the hydrino atom, and the lack of conventional acceptance of the existence of the hydrino atom which is contrary to the accepted scientific theory of the hydrogen atom, applicant has failed to provide preponderance of evidence to support his claims.

The scientific evidence presented by Applicant, as well as his detractors, supports Applicant's theory in refutation of the erroneous position taken by the Committee. The data clearly indicate that the selective extraordinary H broadening in only those plasmas that contain hydrogen and a suitable catalyst can not be explained by field acceleration, but are absolutely consistent with the predictions of CQM and the formation of hydrinos.

The Committee has refused to properly consider this compelling scientific evidence based on its adoption of the biased views espoused by Examiner Souw in his Appendix. Applicant appeals once again to the Committee to reconsider its tenuous position and to allow the present application to issue.

**Conclusion**

For the foregoing reasons, Applicant respectfully submits that the subject application fully satisfies the legal requirements of 35 U.S.C. §§ 101 and 112, first paragraph, and is therefore in condition for allowance. A Notice to that affect is earnestly solicited.

Respectfully submitted,  
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### Journal and Book Publications

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111. R. L. Mills, J. He, Z. Chang, W. Good, Y. Lu, B. Dhandapani, "Catalysis of Atomic Hydrogen to Novel Hydrogen Species  $H^{+}(1/4)$  and  $H_2(1/4)$  as a New Power Source," Thermochemica Acta, submitted.
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105. J. Phillips, C. K. Chen, R. L. Mills, "Evidence of Catalytic Production of Hot Hydrogen in RF-Generated Hydrogen/Argon Plasmas," J. Appl. Physics, submitted.
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## Test Reports

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### **Upcoming Conference Presentations**

R. L. Mills, J. He, Z. Chang, W. Good, Y. Lu, B. Dhandapani, "Catalysis of Atomic Hydrogen to Novel Hydrides as a New Energy Source," Division of Fuel Chemistry, Session: Chemistry of Fuels and Emerging Fuel Technologies, 230th American Chemical Society National Meeting, August 28–September 1, 2005, Washington, DC.

### **Prior Conference Presentations**

56. R. L. Mills, "The Grand Unified Theory of Classical Quantum Mechanics Workshop," at the Politecnico di Milano Technical University, Milan, Italy. Sponsored by the Politecnico Foundation, March 3, 2005.

55. R. L. Mills, "The Hydrino: Lower-level States of the Hydrogen Atom which Have Remarkable Consequences." Invited Evening Lecture at the 17th Symposium of Plasma Physics and Radiation Technology, sponsored by the Netherlands' Physical Society Section Plasma and Gas Discharge Physics and Research School Center for Plasma Physics and Radiation Technology, Lunteren, Netherlands, March 1–2, 2005.

54. R. L. Mills, "The Grand Unified Theory of Classical Quantum Mechanics Workshop," at the University of Eindhoven, Netherlands, February 28, 2005.

53. R. L. Mills, Y. Lu, M. Nansteel, J. He, A. Voigt, B. Dhandapani, "Energetic Catalyst-Hydrogen Plasma Reaction as a Potential New Energy Source," Division of Fuel Chemistry, Session: Advances in Hydrogen Energy, 228th American Chemical Society National Meeting, August 22–26, 2004, Philadelphia, PA.

52. R. L. Mills, BlackLight Power—Technical Presentation, Volta Institute, June 25, 2004, Como, Italy.

51. R. L. Mills, Y. Lu, M. Nansteel, J. He, A. Voigt, B. Dhandapani, "Energetic Catalyst-Hydrogen Plasma Reaction as a Potential New Energy Source," Division of Fuel

Chemistry, Session: Chemistry of Solid, Liquid, and Gaseous Fuels, 227th American Chemical Society National Meeting, March 28-April 1, 2004, Anaheim, CA.

50. R. L. Mills, P. Ray, M. Nansteel, J. He, X. Chen, A. Voigt, B. Dhandapani, "Energetic Catalyst-Hydrogen Plasma Reaction as a Potential New Energy Source," (Division of Industrial and Engineering Chemistry Symposium), September 9, 2003, 226<sup>th</sup> American Chemical Society National Meeting, (Sept. 7-11, 2003), New York, NY.

49. B. Dhandapani, R. Mills, "Novel Liquid-Nitrogen-Condensable Molecular Hydrogen Gas" (Physical Chemistry Session) , Wednesday, June 11, 2003, 36<sup>th</sup> Middle Atlantic Regional Meeting of American Chemical Society, (June 8-11, 2003), Princeton University, Princeton, NJ.

48. P. Ray, R. Mills, "Extreme Ultraviolet Spectroscopy of Helium-Hydrogen Plasma" (Physical Chemistry Session) , Wednesday, June 11, 2003, 36<sup>th</sup> Middle Atlantic Regional Meeting of American Chemical Society, (June 8-11, 2003), Princeton University, Princeton, NJ.

47. R. Mills, "Novel Catalytic Reaction Of Hydrogen as a Potential New Energy Source" (Catalysis Session), Tuesday, June 10, 2003, 36<sup>th</sup> Middle Atlantic Regional Meeting of American Chemical Society, (June 8-11, 2003), Princeton University, Princeton, NJ.

46. J. He, R. Mills, "TOF-SIMS and XPS Studies of Highly Stable Silicon Hydride Films" (Inorganic/Solid State Session), Monday, June 9, 2003, 36<sup>th</sup> Middle Atlantic Regional Meeting of American Chemical Society, (June 8-11, 2003), Princeton University, Princeton, NJ.

45. B. Dhandapani, R. Mills, "Low Power MPCVD Synthesis and Characterization of Diamond Films on Silicon Substrates" (Inorganic/Solid State Session) , Monday, June 9, 2003, 36<sup>th</sup> Middle Atlantic Regional Meeting of American Chemical Society, (June 8-11, 2003), Princeton University, Princeton, NJ.

44. X. Chen, R. Mills, "Calorimetric Study of Heat Generation by Catalytic Reaction of Atomic Hydrogen in Resonant Transfer Plasmas" (Fuel Cells Session) , Monday, June 9, 2003, 36<sup>th</sup> Middle Atlantic Regional Meeting of American Chemical Society, (June 8-11, 2003), Princeton University, Princeton, NJ.

43. R. L. Mills, "Novel Catalytic Reaction of Hydrogen as a Potential New Energy Source," Division of Industrial and Engineering Chemistry, "Green Chemistry in the Design of Alternative Energy Strategies," symposium, Oral Presentation, 225<sup>th</sup> ACS National Meeting, (March 23-27, 2003), New Orleans, LA.

42. R. L. Mills, "Novel Catalytic Reaction of Hydrogen as a Potential New Energy Source," Monday, November 25, Room 216, Protocol Center, TA-3, Los Alamos National Laboratory.

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40. R. L. Mills, Seminar: "Novel Catalytic Reaction of Hydrogen as a Potential New Energy Source," US Environmental Protection Agency, National Risk Management Research Laboratory, Sustainable Technologies Division, Cincinnati, OH, October 24, 2002.

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37. P. Ray, R. Mills, "Spectroscopic Characterization of Stationary Inverted Balmer and Lyman Populations Formed by a Catalytic Reaction of Atomic Hydrogen with Oxygen and with Certain Group I Catalysts," Eighteenth International Conference on Atomic Physics, July 28-August 2, 2002, Cambridge, Massachusetts.

36. R. M. Mayo, R. L. Mills, M. Nansteel, "Direct Plasmadynamic Conversion of Plasma Thermal Power from a Novel Plasma Source to Electricity for Microdistributed Power Applications," 40<sup>th</sup> Power Sources Conference, (June 6-13, 2002), Cherry Hill, NJ.

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28. R. L. Mills, E. Dayalan, "Novel Alkali and Alkaline Earth Hydrides for High Voltage and High Energy Density Batteries," Proceedings of the 17<sup>th</sup> Annual Battery Conference on Applications and Advances, California State University, Long Beach, CA, (January 15-18, 2002), pp. 1-6.

27. P. Ray, R. Mills, "Spectroscopic identification of a novel catalytic reaction of hydrogen plasma," Session ET1: Lighting, American Physical Society Meeting, 54<sup>th</sup> Annual Gaseous Electronics Conference, October 9–12, 2001, Pennsylvania State University, State College, PA.

26. R. Mills, "Novel catalytic reaction of hydrogen as a potential new energy source," Division of Industrial and Engineering Chemistry; Session: Industrial Bio-Based Technology, 222<sup>nd</sup> American Chemical Society Fall National Meeting, (August 26–30, 2001), Chicago, IL.

25. R. Mills, "Spectroscopic identification of a novel catalytic reaction of hydrogen," Division of Inorganic Chemistry; Session: Catalysis, 222<sup>nd</sup> American Chemical Society Fall National Meeting, (August 26–30, 2001), Chicago, IL.

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13. Mills, J. Dong, N. Greenig, and Y. Lu, "Observation of Extreme Ultraviolet Hydrogen Emission from Incandescently Heated Hydrogen Gas with Certain Catalysts," 219 th National ACS Meeting, San Francisco, California, (March 26-30, 2000).
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